

Deprived of rights over natural resources,
impoverished Adivasis get prison

a study of undertrials in Jharkhand



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Impoverished Adivasis Hunted as Criminals: A Study of Jharkhandis alleged as Naxalites

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Executive Summary

This is a research study undertaken to document and highlight the problems of impoverished Adivasis and Moolvasis of Jharkhand, who are being accused as Maoists. Maoists are simplistically referred to as Naxalites in the commercial media. This is on account of Maoists' historical roots in the armed struggles of the mid-sixties against feudal landlordism that sprang forth in the wake of the peasants struggle at Naxalbari in northern West Bengal. Armed struggle of Maoists differs from the supposedly peaceful legislative and administrative process preferred by the parliamentary left. Maoists might believe that the state and the system may have to be demolished and transformed through forcible means in order to bring about equity and justice for the underprivileged majority. The ruling elites however, prefer to denigrate this radical category of Indian communists by referring to them as "left wing extremists," and hence often considering them punishable by law even as terrorists and/ or conspirators against "the state".

This study discloses several undisclosed, striking realities about alleged "Naxalite" under-trials in Jharkhand. Disproportionately large numbers of Adivasis, Dalit and other backward castes (generically referred to as Adivasi-Moolvasis) have been trapped in several false cases especially when they try to assert their constitutional and human rights that are often violated by those who consider themselves "upper" castes/ classes and the state system that serves the interests of those who follow the highly manipulated and prejudiced logic of "uppers" versus "lowers" in Indian society. This argument is corroborated by discussing the very poor responses from Jharkhand's jails to petitions served under the Right to Information Act 2005, presenting relevant data gathered from 102 alleged Naxalite under-trials from eighteen districts of Jharkhand and by sharing personal experiences of several alleged Naxalite under-trial detainees in Jharkhand's jails. Fieldwork for this study was undertaken from early March to the end of June 2015 by paying personal visits to families and villages of arrested persons presently out on bail and those incarcerated for long. These persons have been alleged as Naxalites and foisted cases mostly under section 17 of the Criminal Law and Unlawful Activities (Prevention) Act 2004. A summary of the significant findings of the study in quantitative terms is as follows.

About 46 per cent of under-trials under study belongs to the age-group 29-40 years and 22 per cent belongs to 18-28 years. Adivasis or Scheduled Tribes constitute 69 per cent of the respondents. About 42 per cent of respondents belongs to Sarna Adivasis; 31 per cent Hindu, 25 per cent Christian and two per cent are Muslims. 78 per cent of the respondents is married and 17 per cent unmarried. Agriculture is the main occupation of about 63 per cent and about 17 per cent are casual labours. 22 per cent of the total respondents owns 3-5 acres of cultivable land; 14 per cent two acres and 23 per cent one acre. However, respondents' monthly income shows that 59 per cent earns up to or less than Rs. 3000 only and 38 per cent earns up to Rs. 5000 or less, showing a very low productivity of their landholdings.

Arrest of about 93 per cent of all respondents has taken place during the last 15 years i.e., between 2001 and 2015. The highest number of arrests occurred between the year 2010 and

2013. Regarding the location of arrests, the data shows that about 57 per cent was arrested from their homes; 30 per cent was arrested from nearby towns or on journey; 8 per cent had surrendered at the court after being informed by the police about their being charge sheeted. Five per cent of the respondents was summoned to the police station to be arrested. At the time of interview, 84 per cent of all respondents was under trial. They continue to attend courts on a regular basis. About five per cent of them has stopped attending the court after being bailed out due to fear of being harassed by the police again although their cases have not yet been disposed of. About six per cent of them is still in prison.

One of the most significant findings of the this study is that 97 per cent of all 102 respondents, who were accused as being Maoists or ‘helpers of Maoists’ reiterate that the allegations by the police **is** wrong and their arrests and imprisonment were based on misinformation. Other significant findings of the study is that a large number of fake cases under the draconian 17 CLA Act, UAPA and the anti-state sections of the IPC have been foisted upon the Adivasis, Dalits and the other backward classes in various parts of Jharkhand, particularly within the last decade; that all this is part of the **gross misuse of the criminal justice system** by the state which favours only the rich and powerful to the detriment of the poor and downtrodden, and is now more and more unscrupulously in favour of the take-over of the economically poorest people’s land and the nation’s resources by both multinational and domestic corporates (corporatization); that local vested interests at times do act hand-in-glove with the police to foist such fake cases against innocent people with whom they might have some scores to settle; that in the current system, justice remains very much beyond the means of all such accused; that once implicated in such cases, the threat of further persecution in the form of various forms of harassment, intimidation, re-arrests, etc. persist even after the accused are released on bail; and that even after being released on bail, their cases, mostly false and often fabricated, have been prolonged unnecessarily causing major financial difficulties.

Another dimension of this study exposes the deliberate misuse of criminal justice procedures to repress alleged Naxalite undertrial detainees inside Jharkhand’s jails. This section of the report presents a range of very significant findings: (1) instance of blatant torture while in custody, in gross violation of the rights of prisoners, (2) administrative procedures that amount to blocking and inhibiting pre-trial and trial proceedings while under detention, (3) serial foisting of cases/re-arrests, (4) exceedingly faked-up cases that do not deserve cognizance of even arrest, not to speak of case committal, (5) prejudiced denial of bails, (6) under-trial detention amounting to unwarranted conviction, (7) large proportion of acquittals indicates gross misuse of the criminal justice system, and (8) convictions by the lower courts (whether dismissed by the higher courts or not) that reflect upon the sordid state of adjudication.

The prolonged detention and the exceedingly slow pace of progress of cases, especially retarded due to the serial foisting of multiple case, jail transfers on administrative grounds, non-production from jails to all the courts on the respective dates of hearing, production through video-conferencing also hindered for months and years on end due to technical failures of the

machinery, communication failures and administrative lacunae – all these together result in accused persons being punished for offences which they may not have committed.

This state of affairs might also suggest that a large number of people have also been so punished on political grounds of their oppositions to the policies of the reigning state. Some of the policies of the state might have been perceived as anti-people, exploitative, and leading to the rapacious plunder of the natural resources that belong not to the state and the corporate houses, but to the peasants and other sincere and toiling masses who have been their care-takers and possessors for centuries together and who are the real owners of our national wealth.

These findings in the context of Maoist or “extremist” activities and the history of Adivasis’ sustained struggles to maintain their constitutional and human rights have prompted the authors of this report to delve into certain analytical depth. Accordingly, the authors draw a genealogy of the ideological and schismatic differences that exist between Adivasis and the so-called “mainstreams” which underlies at the root of on-going conflict between the two. This analytical discussion provides a better understanding of who Adivasis are and why and how a vast majority of Adivasis continue to remain impoverished and marginalized.

This report also argues and explicates that left wing extremism is an important symptom, like many others, aggravated by some of the perennial issues engendered by cultural and structural violence which produce endemic poverty, massive illiteracy, hunger and mal-nourishment, rampant corruption, continued oppression and exploitation of the less privileged by the powerful. All of these point to deeper and often neglected structural and systemic problems that call for a more realistic and in-depth analysis and reform of Indian society with its specific sociocultural ideologies and practices that embody several unexamined unequal, oppressive, and exploitative relationships. The analytical chapter of this report suggests that a realistic and closer look at who deprived and marginalised Adivasis are, and why they remain the way they do, as opposed to mainstream, might generate several innovative insights for a more sustainable, democratic and egalitarian structure as opposed to the prevalent, extremely violent system that produce and reproduce endemic poverty, undernourishment, humiliation, silent, and slow hunger deaths of millions.

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We, the members of the research team, take this opportunity to express our gratitude to all those who have been instrumental in visualizing, planning, organizing and implementing various aspects of this study.

First of all, we would like to extend our heartfelt gratitude to Stan Swamy of Bagaisha Ranchi who first conceived the idea of under taking this study of alleged ‘Left Wing Extremist’ Adivasis and Moolvasis under trial in Jharkhand. And Joseph Marianus Kujur, the Provincial of Ranchi Jesuit Province who supported the idea from the start and arranged some financial support to undertake this study. We also thank Stan Swamy and Adv. Prashant Rahi for their valuable comments and suggestions on the first draft of this report.

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We hope you will be enlightened by this humble attempt of ours to understand the troubles faced by Adivsai-Moolvasi under-trials in Jharkhand, the reasons as to why so many of them come to be so and other significant and broader issues linked to the phenomenon of being accused as a Naxali or LWE.

Bagaicha Research Team

Bagaicha, Ranchi30
September, 2015

List of Acronyms and Abbreviations

| | |
|-------------|---|
| AICCCR | All India Coordination Committee of Communist Revolutionaries |
| CL | Criminal Law |
| CNTA | Chotanagpur Tenancy Act |
| CPI(Maoist) | Communist Party of India (Maoist) |
| CRPF | Central Reserve Police Force |
| FC | Forward Caste |
| FIR | First Information Report |
| IGP | Inspector General Prisons |
| ILS | Indian Legal System |
| JJMP | Jharkhand Jan Mukti Parishad |
| LWE | Left Wing Extremism/ Extremists |
| MCC | Maoist Communist Centre |
| NCRB | National Crime Report Bureau |
| MGNREGS | Mahatma Gandhi National Rural Employment Guarantee Scheme |
| OBC | Other Backward Caste |
| OC | Officer in Charge |
| PESA | Panchayats (Extension to Scheduled Areas) Act |
| PIL | Public Interest Litigation |
| PLFI | People's Liberation Front India |
| PRIs | Panthayati Raj Institutions |
| RTI | Right to Information |
| SC | Scheduled Caste |
| SC | Supreme Court |
| SIDP | Saranda Integrated Development Plan |
| SP | Superintendent of Police |
| SPO | Special Police Officer |
| ST | Scheduled Tribes |
| TPC | Tritiya Prastuti Committee |
| UAPA | Unlawful Activities (Prevention) Act 2004 |
| UISE | Unequal Incorporation and Social Exclusion |
| ULFA | United Liberation Front of Assom |

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Chapter – 1

Introduction

This document presents the findings of a study conducted on under-trials (mostly) Adivasi-Moolvasi men and women¹ alleged as “extremists,” mainly under Section 17 of Criminal Law and Unlawful Activities (Prevention) Act 2004. Most of the respondents of this study have been out of jails but still are under trial, very few are acquitted and several others are under-trial-detainees inside Jharkhand’s jails.

The term under-trial denotes an accused, but unconvicted person i.e., one who has been detained in prison during the period of investigation, inquiry or on trial for the offence she/ he is alleged to have committed or such persons outside jail attending courts for trial until his/ her case is concluded. The Oxford Dictionary defines an under-trial as ‘a person who is on a trial in a court of law’.² The 78th Report of Law Commission includes a person, who is in judicial custody on remand during investigation, under the category of under-trial. According to this report there are three types of under-trial prisoners: (1) those being tried for non-bailable offences, whose bail the court has denied; (2) those being tried for non-bailable offences although court has passed an order for bail, however, he/ she has difficulty in finding appropriate surety or because of some

¹Adivasi means the descendants of the ‘original’ inhabitants in India [Xaxa, V. 1999 ‘Tribes as Indigenous People of India’, *Economic and Political Weekly* 34(51): 3589-3595]. Hardiman argued, people who called themselves Adivasis did not fit in the broader term ‘subalterns’ which the proponents of subaltern studies employed roughly to represent all the ‘lower’ castes as opposed to the so-called ‘upper’ castes sovereigns [Hardiman, D. (1987) *The Coming of the Devi: Adivasi Assertion in Western India*, Delhi: Oxford University Press]. Omvedt showed, although the term ‘Adivasi,’ as Hardiman (1987) had noted, came into existence in Chotanagpur in the 1920s-30s, it holds much ‘similarity to other “Adi” movements of the 1920s and 1930s mainly among ex-untouchable groups (Adi-Dravidas, Adi-Andhras, Adi-Hindus, Adi-Dharam, etc.) all of which had a common ideological claim of being the original inhabitants who lived in a society of equality until subjugated’ by some dominant groups [Omvedt, G. (1988) ‘Review: Are ‘Adivasis’ Subaltern?’, *Economic and Political Weekly*, 23(39): 2001-2002: 2001]. However, terms such as ‘Adivasi,’ ‘tribe,’ ‘tribal,’ and ‘Scheduled Tribes,’ are all debated for their origin, connotations, representational and analytical applications [see Rachel, E. (2009) *Notions of Life in Death and Dying: The Death in Tribal middle India*, New Delhi: Concept Publishing Company]. Ram argues that the term ‘Dalit’ encompassed all those people categorized as Scheduled Castes, Scheduled Tribes, and ‘Backward’ Castes, although in the current political discourse, it is mainly confined to Scheduled Castes (formerly untouchables) and covers only those who are classified as Hindus, Sikhs and Buddhists while excluding Muslims and Christians [Ram, R. (2012) ‘Beyond Conversion and Sanskritisation: Articulating an Alternative Dalit Agenda in East Punjab’, *Modern Asian Studies* 46(3): 639–702]. As a viable solution to this confusion, Ilaiah conceptualizes all the so-called ‘lower’ castes, including, Dalits jointly referred to as *Dalitbahujans* (meaning the oppressed and marginalized majority peoples of India) [Ilaiah, K. (2010) *The Weapon of the Other: Dalitbahujan Writings and the Remaking of Indian Nationalist thought*, New Delhi: Dorling Kindersley (India) Pvt. Ltd]. Moreover, for a more recent and succinct discussion on the politics of terms like ‘tribal’ and ‘Adivasi’ [See Rycroft, D. & S. Dasgupta (2011) *The Politics of Belonging in India: Becoming Adivasi*, London and New York: Routledge]. In this present study the term in Jharkhand, ‘Adivasi-Moolvasis’ may be considered as a substitute for Ilaiah’s formulation of *Dalitbahujans*. Hence, this study uses ‘Adivisi,’ and ‘Adivasi-Moolvasis’ (not as monolithic units, but as multi-layered realities) interchangeably, since these are peoples’ self-description and a political choice/ statement by itself [Roy Burman, J.J. (2009) ‘Adivasi: A Contentious Term to denote Tribes as Indigenous Peoples of India’, *Mainstream Weekly*, xlvii (32), July 25].

² Oxford Dictionary, India, available at: <http://oxforddictionaries.com/definition/under-trial> (retrieved on January 4, 2015).

other reason, does not furnish the bail bond; and (3) those being tried for bailable offences but who, because of the difficulty of finding appropriate surety or some other reason, do not furnish the bail bond.³“Detention in prison in the case of under-trial prisoners is generally the result of arrest for an alleged offence not followed by the grant of bail.”

This study, however, considers any person who is accused, arrested and imprisoned (prior to his/her conviction), and anyone out (of jail) on bail but continues to attend a court to be tried. While discussing various aspects and struggles of persons accused, arrested and has been under trial, the study not only reveals many hitherto undisclosed systemic realities, processes and facts but also provides innovative insights about society, culture and ‘the state,’ legal and criminal procedure systems, administration, the police, politics and political leaders and about Maoists, Naxalites or the so-called “Left-Wing Extremists” (LWE).

Although the main focus of this study is on under-trials, in order to better understand the issues faced by persons under trial, it takes a systemic perspective and analytically examines several related issues, such as state-led “development” that produces de-development in Adivasi regions, “extremism,” Indian legal system and the administration of criminal justice in these regions of the country.

This report presents information about alleged Maoists under-trials in Jharkhand from two perspectives: one, from the perspective of under-trials out on bail and their relatives, friends and co-villagers and two, from under-trials who have been detained inside jails. The first chapter of the report discusses the methodology employed in the study, including the methods and tools of data collection, geographical area of the study, and sources of data. The second chapter introduces certain concepts and their linkages to each other, such as the main features of Indian Legal System (ILS), its administration, “Left Wing Extremism (LWE),” reasons for its presence in predominantly Adivasi regions, and dispossession, marginalisation and impoverishment of Adivasis throughout Indian history. The third chapter presents the summary of data and findings regarding the socio-economic status of a hundred and two respondents most of who have been arrested, imprisoned and are now out on bail. These findings pertain also to the details of their encounter with the criminal justice system – the police, CRPF, prison staff and those who administer legal proceedings. The fourth chapter presents a few significant stories of under-trials that reveal many harsh realities of people who have been harassed and tortured by the police and CRPF in conflict-ridden predominantly Adivasi regions.

The fifth chapter highlights the numerous problems faced by alleged Maoist under-trial detainees in various jails of Jharkhand. These findings show that the criminal justice system has deliberately been employed to oppress and curb all human and constitutional rights of such detainees. The sixth chapter of this study analytically examines the overarching ideological fabric of Indian society and culture on which the concept of state and ideas of politics in India took shape historically. It draws a philosophic genealogy of the state in India and explicates what

³ *Seventy-eighth report of the Law Commission of India on Congestion of Under-Trial persons in jails*, February 1979, New Delhi: Ministry of Law, Justice and company affairs: p. 4.

is called “political Brahmanism,”⁴ in a relentless pursuit of wealth, power and honour (Lakshmi) which find favours with global neo-liberal capitalism today. While doing so it redefines Adivasi as people who escape/ or avoid and challenge the state in India and its domain. Looked at from this perspective, the chapter explicates the presence of a perennial conflict between the ideology of the so-called “mainstream” and the ideology of Adivasis in their alternate imaginations of and attachment to “Adivasi sacral polity.”⁵ The seventh and final chapter concludes the report with highlighting the main observations and findings of the study.

Objectives

The primary objective of this study is to highlight, and document the atrocities done to Jharkandis who fight for their human and constitutional rights. It also aims to furnish, as far as possible, detailed information required by the Supreme Court (SC) about Adivasis languishing in various jails of Jharkhand, Odisha and Chattisgarh. The SC has reportedly required the legal activists who filed a Public Interest Litigation (PIL) stating that there have been thousands of Adivasis being falsely accused and arrested as being ‘Naxalites.’ In this respect it is important to note that to be a Maoist or Naxalite is not a crime; holding such political views is no offence as per the law of the land, but to be a militant or take up arms with certain specific intent is an offence. Secondly, the study also aims to understand the consequences for Adivasis to be so accused and arrested. In other words, the study also aims to understand the nature and extent of troubles that follow with the arrest of a person from an economically most impoverished section of Indian society. Yet another important objective of this study is to examine the reasons to understand the processes that cause the spread of LWE in predominantly Adivasi regions.

Significance/ Relevance

We consider this study to be significant as it also intends to contribute to reconstruct the understanding created by the media on account of their blind acceptance of police versions, that everyone, including a large number of Adivasis, arrested and accused u/s 17 CLA, or any UAPA section or under the serious anti-state sections of the IPC, such as sedition, anti-state conspiracy, waging war against the state, etc. must be Maoist militants, armed Naxalites or left-wing extremists. In this regard, the study also seeks to highlight the historical processes of dispossession and impoverishment of Adivasis, as one of the main reasons for their continued struggles and resistance. It attempts to show that such struggles and resistance among Adivasis are caused by continued and aggravated infringements of their legal, constitutional and traditional rights to livelihood resources and their fundamental rights to lead dignified lives as

⁴ McClish, M. R. (2009), *Political Brahmanism and the State: A Compositional History of the Arthasastra*, doctoral dissertation, Faculty of the Graduate School of The University of Texas.

⁵Shah, A. (2007) “‘Keeping the State away’: democracy, politics, and the state in India's Jharkhand,” *Journal of the Royal Anthropological Institute* (N.S.) 13: 129-145; Shah, A. (2010) *In the Shadows of the State: Indigenous Politics, Environmentalism, and Insurgency in Jharkhand, India*, Durham and London: Duke University Press.

equal citizens. Thus, this study also shows how Adivasis' traditional, human and constitutional rights have been systemically denied to them. This it provides reliable understanding about Adivasis' commitment and struggles for socioeconomic justice against historically entrenched unequal power relations, structures and agents of exploitation, on the one hand, and the gross neglect of their constitutional rights by the repressive state apparatus on the other. Finally, it highlights the need for people to know in order to overcome prejudices, and to understand how the system works so that by a better understanding of the same, people would be able to reduce its ill-effects on society.

Methodology

Methodology here refers to the reasons for choosing to employ the type of methods and tools used in this study to collect data and information. Human beings are both free and restricted. Freedom emerges from humans' free will to choose to act the way he/ she prefers to even when one is restricted externally. Restrictions emerge from scarcity of resources as well as sociocultural relations and structures that evolve historically through processes of social action (human interactions as embodied beings). Hence, no social research is complete merely by collecting figures and facts. The context, including history, geographical location, and various perspectives of multiple stakeholders who constitute the context in question are equally significant for understanding any social phenomenon. Hence, this study employs mixed – a combination of qualitative and quantitative – methods.

a. Methods and Types of Data

Both quantitative and qualitative research methods have been employed in this study. **Quantitative data** include demographic and socioeconomic profile of the respondents and their households along with a few other basic information, such as the date of arrest, type of crime alleged to have committed, if he/ she was granted a bail or not, number of trial-attendance and related expenses, type of punishment, if any, etc. This information was collected by administering a simple semi-structured questionnaire to every respondent.

Qualitative data include specific case histories collected through in-depth personal interviews with respondents. Such interviews, note-taking and recordings were undertaken by a team of two researchers who also administered the questionnaire. In-depth interviews were conducted with persons who are under-trial, their family members and co-villagers. It was almost impossible for us to trace and talk to the policemen/ CRPF who carried out specific arrests in specific cases to get their side of the story except that we have been able to collect a few FIR copies and charge sheets filed against a few of our respondents. However, several of our respondents do not have these important documents and many of them were not even aware of their right to possess them either.

b. Primary Sources (in-depth Personal Interviews and Semi-structured Questionnaires)

In order to collect relevant qualitative data through personal interviews, we had initially planned to access every jail in Jharkhand to talk to alleged “Naxalite” under trial detainees. Accordingly, we forwarded an application to the Inspector General Prisons for his permission to have access to jails. However, we did not get any reply from the concerned officer, although we waited quiet a long time to have a response to our request.

Then we realized that a few of our colleagues themselves had been falsely accused of being involved in LWE, arrested, tortured, imprisoned and finally released on bail after enduring much physical and mental torture. Thus, we had a meeting with a few of our colleagues to hear from them about their experiences of undergoing such persecution to know how best we would be able to meet and talk to many more of such persons who have been arrested with similar accusations and are now under trial but out on bail. Thus, we began to collect the contact details of persons who are under trial outside the jail from our colleagues who have been working activists at the grassroots in various districts of Jharkhand. Hence, we accept that there is a limitation in our primary source pertaining to socio-economic status and testimonies of our respondents, who are bailed out, in insofar as these respondents were primarily contacted thru our colleagues who themselves have been the victims in the present political scenario. For, this is what was possible as direct contact with alleged “Naxalite” under-trial detainees inside jails was denied to us.⁶

With the contact details provided by our colleagues, we formed a team of six researcher assistants, who formed three teams of two each, to travel to villages and homes of persons most of who have been presently under trial but out on bail.⁷ The team members have personally visited and listened to their personal experiences and that of their co-villagers, family members, friends and relatives who related to researchers the reasons for their being accused, arrested, and imprisoned. Our respondents have generously shared their experiences of encountering the police/ CRPF, of arrest and imprisonment, and above all, the why and how of such incidents.

Fieldwork visits were carried out within a span of four months (from the beginning of March to the end of June 2015). Thus, we have collected a total of 102 under-trials’ case-histories, contact details, and other relevant information. Most of the names mentioned in the section on case study are changed to keep the respondents’ identity anonymous.

The FIR and charge sheets that have been available with respondents have helped us to compare the stories we have heard from them with that the police have prepared to justify the arrest, torture and imprisonment of respondents.

Besides these, we have also discussed with a few police/ CRPF personnel about incidents of false acquisition, random arrests, murder of villagers by the so-called Naxalites or by police/ CRPF

⁶ Besides this perspective of those bailed out alleged “Naxalites,” we also have managed to access some very significant data that provide a perspective from inside jails. This was made possible through a team of advocates and activists who managed to tap information thru the relatives and colleagues of those incarcerated in jail for a long time. The procedure collecting such inside information is discussed later in this section.

⁷ We also used a few contacts received from a jail via RTI (details given below) to trace a few of our respondents from Saraikela Kharsawan district.

and fake encounters, etc. Besides police personnel, we have also met and discussed with many advocates who have been handling the cases of under-trials under this study. Most of the advocates have cooperated with discussions; however, several of them have not delivered the relevant documents (copies of the FIR and charge sheet) that we had requested although they had promised us that they would do so.

RTI Petitions Served to Jails of Jharkhand

As we were disappointed by the nonresponse of the office of the IG, Prisons to our request to permit us to enter inside jails to interview undertrials of our choice, we served RTI petitions to all 26 jails of Jharkhand under the Right to Information Act, 2005 (RTI). Out of 26 jails in Jharkhand, only 12 of them responded to our RTI petition. Most of these responses were incomplete as per the information requested.

Information was sought in Form – A [Rule 6(3) & 7(1)] about under-trial prisoners arrested under Unlawful Activities Prevention Act (UAPA) and section 17 of Criminal Law (17 CL) from 01/01/2012 to 31-12-2014 (three years) shown below in a tabular form:

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|-----------------|--|----------------------------|---------------------------|------------------------|-----------------|------------------------------|
| Prisoner-number | Prisoner's name, his/her father's name and address | Social group: SC/ST/OBC/FC | Date of entry into prison | Indicate UAPA or 17 CL | Conviction date | If bailed out, then its date |

The responses we have received from a few jails to our RTI petition is presented in table-2 in chapter-3 of this report.

Information from Inside Jails

Besides the above two primary sources of data, we also have a group of colleagues (mainly lawyers and activists) who work with alleged “Naxalite” under-trial detainees to understand their issues and to provide legal assistance. They have gathered some very important information about incarcerated under-trials and their relatives who pay regular visits to them in jails. Their findings too have been incorporated in this report as they disclose both a significant dimension of the reality of under-trials and valuable information about how the criminal justice system has been employed to suppress and silence under-trial detainees. Such deliberate acts of suppression and denial of prisoners’ human rights reveal the crimes regularly committed by the personnel appointed to administer the criminal justice system.

Geographical Areas

| Places (districts) | % | Places (districts) | % |
|-------------------------------|---|-----------------------------------|---|
| Baxar (arrested in Ghatshila) | 1 | Latehar | 1 |
| Bokaro | 3 | Lohardaga | 1 |
| Dhanbad | 2 | Midnapore (arrested in Ghatshila) | 2 |
| Dumka | 5 | Pakur | 8 |

| | | | |
|--------------|----|--|-------------|
| E. Singhbhum | 2 | Ramgarh | 3 |
| Gharwa | 13 | Ranchi | 5 |
| Giridih | 15 | Saraikela Kharsawan | 4 |
| Gumla | 8 | W. Singhbhum | 11 |
| Hazaribagh | 3 | | |
| Khunti | 15 | | |
| | | Total number of respondents = 102 | 100% |

Table 1: Percentage of persons interviewed from each district of Jharkhand

c. Secondary Sources

Unlike several other studies done by the so-called “development professionals,” who most often undermine the complex, conflict-ridden and long-drawn historical processes which have led to the present predicaments of rural Adivasi societies, this study looks into relevant secondary sources to trace the historical processes of dispossession, marginalization and impoverishment of Adivasis.⁸ Traditional Adivasi societies were characterized by their symbiotic relationship with nature, communal ownership of land and natural resources, more egalitarian social relationships among the members of their societies, consensus based decision-making for self-governance and an eco-spirituality affirming common responsibility for the earth and all living beings. Today Adivasi societies have been impoverished and their sociocultural practices and values rendered mostly dormant and demoralised. This study briefly trace the processes of infringement into Adivasis’ economic, political and human rights by various types of intruders to show how and why interactions between Adivasis and “mainstream” have progressively been impoverishing and demoralising the former notwithstanding the many constitutional, and legal, provisions to safeguard Adivasi rights. For this purpose this study has reviewed several books, journals, periodicals and newspaper reports that discuss issues related to Adivasis’ impoverishment, dispossession and historical processes of marginalisation, the so-called “Left Wing Extremism” in predominantly Adivasi regions and processes of penetration and state-formation in these terrains.

⁸ Take any recent report of studies/ analyses conducted on Adivasi issues, for example, ‘Migration of Tribal Women: Its Socioeconomic Effects - An in-depth Study of Chhatisgarh, Jharkhand, M.P and Orissa’ (2010) by Society for Regional Research and Analysis, Gurgaon. This study says that “tribals” stay in inaccessible areas and hence they are unable to access benefits from state governments. However, it has not mentioned the long-drawn conflict-ridden historical processes to show how and why “tribals” have come to inhabit in “inaccessible areas.”

Chapter – 2

The Context, Issues and Linkages

This chapter briefly reviews works related to Under-trials' life in India, findings of prison statistics India 2013, Naxalite movement, Naxalite movement in Jharkhand and other Adivasi regions of India, and Adivasis being accused and imprisoned as Naxalites. While doing this, it also attempts to situate this study in the broader context of extremism, deprivation of Adivasi/Moolvasis and the state-system in India, and their interrelatedness. While doing this, it shows that structural, cultural and direct violence⁹ are inherent in the very ideology of state-formation and penetration in India; and they persist most visibly in predominantly Adivasi regions. They have been visible in three processes that have been in progress: (1) increasing corporatisation of land, forest, water-bodies and minerals and continued Adivasi-resistance; (2) increased militarisation of Adivasi regions; and (3) deliberate use of criminal justice system to repress Adivasis in general and emerging Adivasi/Moolvasi human, cultural and political rights activists in particular.

Under-trials' Life in India's Jails

“India has very few documents about life in its horrific jails.”¹⁰ The limited numbers of available documents provide a rather grim picture of under-trials in India's jails. A recent study of criminal justice system in India has shown that prisoners languish behind the bars for several years, sometimes decades, awaiting their day in court. This situation prevails despite the Supreme Court ruling in 1979 that defendants have a fundamental right to speedy trial.¹¹ This means there

⁹ The most common types of violence fall under three headings: (1) structural violence that is produced systemically – abject poverty, hunger and malnourishment causing slow death of the powerless. “Structural violence is indeed the most glaring form of politics of bloodshed. It is a conscious ideological construction to downplay the complicity of the rulers in causing the slow death of million, caused by policies (or lack of them) of the government in the interest of ensuring super-profit for the corporate sector, Indian and foreign, and their minions” [Navlakha G. (2012) *Days and Nights in the Heartland of Rebellion*, New Delhi: Penguin books India]; (2) physical/ subjective/ direct violence, the most commonsensical form of violence produced by identifiable subjects, e.g., visible violence such as insult, and killing; (3) symbolic violence that of language based on the master signifier: patterns of social life encoded within language, insofar as, they reify relations of domination via hegemonic discourses [Žižek, S. (2009) *Violence*, London: Profile]; and related to the symbolic violence is “Cultural violence, an aspects of culture, the symbolic sphere of our existence exemplified by religion and ideology, language and art, empirical science and formal science (logic, mathematics) that can be used to justify, legitimize direct or structural violence” [Brauch, H.G. (2013) *SpringerBriefs on Pioneers in Science and Practice*, Vol. 5, Springer Heidelberg New York Dordrecht London: p. 11].

¹⁰ Fernandes, N. (2014) ‘Forward’ to Ferreira, A. (2014) *Colours of the Cage: A prison Memoir*, New Delhi: ALEF Book Company.

¹¹ Hussainara Khatoon and Others (I) vs. Home Secretary, State of Bihar (1980) 1 Supreme Court Cases 81, Decided on 12.02.1979 in Writ Petition No. 57 of 1979.

is a huge gap in encouraging judicial pronouncements and how they play out in reality.¹² Moreover, many Indian prisons accommodate 100 to 200 per cent over their capacity amidst squalid conditions. Weaker jail-inmates face serious physical harm in such conditions. This happens despite the fact that “preventive detention is a negation of the rule of law and the principles of fair trial.”¹³ About 70 per cent of the total population in India’s prisons consists of under-trials and first-time offenders. Although the Supreme Court had outlawed many malpractices rampant in jails, they keep happening. Not only the prisoners remain unaware of their rights, most lawyers too remain ill-informed about provisions of legal aid at hand.

Majority of India’s prisoners are economically poorer rural people as they, in general, are economically poor due to their fragmented landholdings. A high level of unemployment prevails due to very poor rural agrarian infrastructure such as irrigation facilities provided to small-holder agriculturists who depend on rain-fed cultivation.¹⁴ Moreover, under-trials and their families from economically backward sections of Indian society, have little means of meeting the expenses of a bail. Hence, such persons often end up in jail for years without being convicted. They also undergo severe persecution as torture of prisoners begins from the time one is admitted into a jail.¹⁵ All these further impoverish them physically and socioeconomically. “Justice delayed is justice denied.”¹⁶

In 1993, out of the 7200 prisoners housed in the Central Jail Complex (called the Tihar Jail), only 900 prisoners had actually been convicted of any crime. Seven out of every eight prisoners in Tihar Jail consisted of those who had not been convicted of any offence, which amounts close to 90% of all inmates.¹⁷

The prison administration in the country is generally in a depressing state. Most prison buildings are old and ill-equipped and many prisons are heavily overcrowded. Convicts and under-trials are lodged in the same institutions throughout; the adults, adolescents, juveniles, women and lunatics are also generally confined in common institutions and there is a serious lack of separate institutions for these various categories of prisoners.¹⁸

Out of a total of 382 thousand prisoners in India, about 254 thousand are under trial. Out of these only one-third, i.e., only 127 thousand are convicted and serving their sentence. Two-third of 382 thousand (i.e., 255 thousand) prisoners in India’s jails are not proved guilty.¹⁹ There are also

¹² Krishnan, J.K. & Kumar, C.R. (2011) ‘Delay in process, denial of justice: the jurisprudence and empirics of speedy trial in comparative perspective,’ *Georgetown Journal of International Law*, Vol. 4: 747-784.

¹³ Malik. M.S. (2013) ‘Preventive detention and human rights,’ *SVP National Policy Academy journal*, November: 8-17.

¹⁴ Shah, M., Banerjee, D., Vijayshankar, P.S. & Ambesta, P. (1998) *India’s Drylands: Adivasi Societies and Development through environmental Regeneration*, Delhi: Oxford University Press

¹⁵ ‘Humanising the prison walls,’ *Combat Law*, July 22, 2010.

¹⁶ ‘The Problems of Under-trials,’ Garg, R. & Ritwik, S.:

http://www.legalservicesindia.com/article/print.php?art_id=1280 (retrieved on January 14, 2015).

¹⁷ *Ibid.*, p. 2.

¹⁸ *Seventy-eighth report of the Law Commission of India on Congestion of Under-Trial persons in jails*, February 1979, New Delhi: Ministry of Law, Justice and company affairs, p. 4.

¹⁹ Thakur, P., ‘Same day bail for Salman Khan, but over 2.5 lakh under-trials languish in jails,’ *The Times of India*, May 8, 2015.

reports about prisoners seeking euthanasia. According to these reports, prisoners have reportedly written complaint-letters to the Chief Justice of India and National Human Right Commission highlighting the plight of prisoners who have served complete jail terms. These complainants stated that the state’s Sentence Review Board had stopped discharging its duties sincerely. They also said that there were several prisoners who were lodged in jail for over 32 years, a gross violation of their fundamental freedoms and human rights.²⁰

Driven by a shortage of prosecutors, judges and courts and—among other reasons—slow procedures; there are more people under trial in India than there are people in the Netherlands or Kazakhstan. 22.2 million people under trial in India... In 2013, the cases of as many as 85% of people put on trial were pending, according to National Crime Records Bureau (NCRB).²¹

Prison Statistics India 2013 shows the percentage of total number of prisoners who belong to historically marginalized social groups, such as Dalits, Adivasis and Muslims, go much higher than the proportion of their share in the total population. For example, Dalits (SCs) constitute about 16.2 per cent of India’s total population; however, they constitute 22.5 per cent of convicts and 21.3 per cent of under-trials. Adivasis constitute 8.6 per cent of the population; however, there are 11.7 per cent Adivasi convicts and 11.3 per cent under-trials. Muslims constitute around 14 per cent of India’s total population whereas their share of total jail population is around 19 per cent – 17.1 per cent convicts and 21 per cent under-trials.²²

Prison Statistics Pertaining to Jharkhand

Jharkhand has a total of 26 jails in 24 districts, of which five are central jails, 17 districts, and four sub jails. Total prison capacity is 14243 persons; however, the total occupancy was 18220 which is 128 per cent of the actual prison capacity as on 31-12-2013.²³

Under-trial Prisoners in Jharkhand (social-group wise) as on 31-12-2013

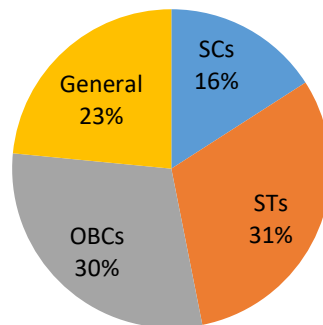


Figure 1: Under-trial Prisoners in Jharkhand (social-group wise)

²⁰ ‘Sixty under-trial prisoners seek euthanasia, write to PM,’ *Hindustan Times*, March 25, 2015.

²¹ ‘Indians Under Trial Exceed Dutch Population,’ *India Spend*, May 7, 2015.

²² ‘Prison statistics 2013: Higher proportion of Muslims, scheduled caste and scheduled tribe convicts and under trials in India’s jails,’ published on October 30, 2014 on www.counterview.org (retrieved on October 31 2014).

²³ *Prison statistics India* (2013) National Crime Records Bureau, Ministry of Home Affairs, Government of India.

Source: *Prison statistics India* (2013) National Crime Records Bureau, Ministry of Home Affairs, Government of India.

The percentage of under-trial prisoners according to social groups stands as 31 per cent Scheduled Tribes (STs), 30 per cent Other Backward Castes (OBCs), 23 per cent general and 16 per cent Scheduled Castes (SCs). Here the proportion of ST and OBC undertrials are disproportionately higher while considering their respective share in the total population of the state.

Convicted prisoners in Jharkhand (social-group wise) 31-12-2013

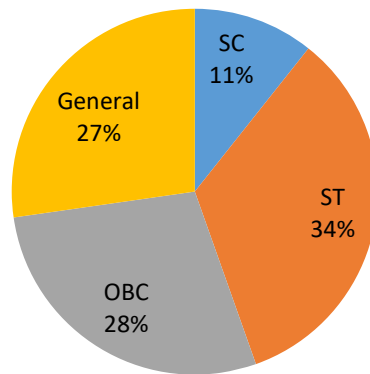


Figure 2: Convicted prisoners in Jharkhand (social-group wise)

Source: *Prison statistics India* (2013) National Crime Records Bureau, Ministry of Home Affairs, Government of India.

Similarly the percentage of convicted prisoners too show a similar pattern as 34 per cent are Scheduled Tribes, 28 per cent Other Backward Castes, 27 per cent General and 11 per cent Scheduled Castes. Here too the proportion of STs seems much more than their percentage (26 %) share in total population of the state.

Jail statistics Jharkhand vs. all India

| | All India | Jharkhand |
|------------------------|-----------|-----------|
| Occupancy rate | 118.40 % | 127.90 % |
| Under-trials | 67.6 % | 77.10% |
| Convicts | 31.50 % | 29.9 % |
| Staff per jail-inmates | 8 | 19 |

Table 2: Jail statistics Jharkhand vs. all India

Source: *Prison statistics India* (2013) National Crime Records Bureau, Ministry of Home Affairs, Government of India.

Both occupancy rate and the percentage of under-trials in Jharkhand are significantly higher than that at the national level, whereas conviction rate in Jharkhand is slightly less than the national conviction rate. However, Jharkhand has only one prison staff for 19 jail-inmates compared to one prison staff attending to eight prisoners as per the national level data. While these are

revealing and scandalous information about India's jails and those incarcerated inside them, they point towards the need to take a closer look at India's legal system.

Indian Legal System (ILS)

*Written laws are like a spider-web, it will trap the poor and the weak, but it will be torn to pieces by the rich and powerful.*²⁴

Ideally, no person should be made to suffer incarceration before she/ he has been proven guilty in the eye of the law. By allowing incarceration which deprives persons of their right to liberty by unnecessary detention, the existing system violates the basic principle of criminal jurisprudence – every person shall be presumed innocent till proven guilty. From this it follows that the present legal system, including all its implementing agencies – the police, the judiciary, the prosecutors, the defence lawyers and the prison department – often fail to follow the Criminal Procedure Code and other related rules that have been laid down.²⁵ For example, Ferreira testifies that the police arrest the “suspects” under the Unlawful Activities (Prevention) Act, 2004, brand them as terrorists, keep them in unofficial detention, and scare them by physical torture. When such things keep happening, lofty statements such as, “the law rules an accused person is innocent until proven guilty” remain hollowed out. Moreover, it is reported that the allegations of the police are sufficient evidence for jail authorities to punish those awaiting trials.²⁶ Custodial torture, years of imprisonment on false cases and the flagrant violation of procedure undermine the legal system and rule of law in India.²⁷

A report of the National Mission for Delivery of Justice and Legal Reform published in 2012 says, “‘JUSTICE, Social, Economic and Political’ is the spirit and vision of our Constitution as adopted by us which WE, THE PEOPLE OF INDIA have solemnly given to ourselves on 26th November 1949. It is the duty of the State to secure a social order in which the legal system of the nation promotes justice on a basis of equal opportunity and in particular ensures that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.” However, in actual practice the Indian Legal System (ILS) has mostly been made dysfunctional so that it serves purposes that are contrary to the lofty ideals being stated. “The central point remains. The state and the law will penalize the deprived, the destitute, and the disabled with severity in the title of the ethic of legalism. It would not seriously attend to the tasks of distribution [of resources] which create the need for deviance in the title of survival”²⁸.

²⁴ Quoted in Swamy, S. (2015) ‘Laws in favour of Adivasis are show-pieces not meant to be implemented,’ *News Wing*, July 3.

²⁵ ‘Humanising the prison walls’ *Combat Law* 22 July 2010

²⁶ Fernandes, N. (2014) ‘Forward’ to Ferreira, A. (2014) *Colours of the Cage: A prison Memoir*, New Delhi: ALEF Book Company.

²⁷ Roy, Arundhati, in forward to Ferreira, A. (2014) *Colours of the Cage: A prison Memoir*, New Delhi: ALEF Book Company.

²⁸ Baxi, U. (1982) *The Crises of Indian Legal System, Alternatives in Development: Law. Stranger Journalism*, New Delhi: Vikas Publishing House Pvt. Ltd: p. 16.

The reason is that “the Constitution is a compromised document of middling quality, whose best provisions have been diluted through amendments.”²⁹

Baxi has made the crisis of ILS clearer in these lines:

Observe how many of these fellows [the powerful and the rich] get the *Hyderabadi goli*. Observe how they get anticipatory bail for the asking. Observe, once the cases start, the innumerable clauses and sub-clauses these fellows are able to invoke in their favour. And contrast all this with the helplessness of the simple tribal who is dispossessed of his land by *sahukar* from the plains who retreats in the forest and clears some land to keep himself from starving and who is then arrested for violating the Forest Act.

Contrast the clauses that come to their aid with the helplessness of those who have been languishing in jail for seven years as under-trial prisoners. ...

And while you are at it, count the number of landlords in our vast country who have been sentenced for not paying minimum wages or for exacting a higher-than-legal share of the crop from their tenants. ...

What does all this tell us about the judiciary, about the legal system? Is he not right then who tells us that “Law is nothing but the convenience of the powerful.” (And incidentally, the one who said this was not Mao nor some raving Naxalite, but Gandhi).³⁰

It is clear that the legal system in India remains seriously fractured, rotten, and malfunctioning producing contrary outcomes for India’s economically poor citizens. With this awareness we proceed to examine and understand issues and situations related to Adivasi, Dalit and other “backward” caste under-trials who have been accused of being “Naxalites.” But prior to this, it is necessary to briefly discuss the phenomenon called “Naxalism” or “left wing extremism.”

Insurgency and counter insurgency in India

*According to Mao Zedong, angry disgruntled and dispossessed peasants constituted water in which ‘militant fish’ roamed about freely without any fear of being caught or betrayed.*³¹

Naxalite movement began in a remote village in West Bengal called Naxalbari in 1967. A Santal youth was brutally attacked by local landlords for ploughing his land. Clearly, the Santal youth was only exercising his Constitutional rights against the prevalent oppressive understanding and praxis of landlords that Adivasis and their resources must be kept subservient. The oppressive attack of landlords on the Santal youth infuriated the local Adivasi population. This led to a violent retaliation to recapture Adivasi lands from landlords’ control. This incident in Naxalbari soon found a widespread grassroots support; it took the form of a country-wide movement to restore the rights of all oppressed and marginalized sections of Indian society.

Both the elite/ ruling class and the state machinery tried to suppress this movement. Despite such suppressions, the movement gradually took the transitory shape of All India Coordination Committee of Communist Revolutionaries (AICCCR) in May 1968. The two core concerns of AICCCR were: (1) allegiance to armed struggle and (2) non-participation in elections.

²⁹ Shahane, G. (2015) ‘The reason it’s so difficult to obtain progressive verdicts in India’s courts.’ <http://scroll.in/article/716073/Thereasonit'ssodifficulttoobtainprogressiveverdictsinIndia'scourts> (retrieved on May 25, 2015).

³⁰ Baxi, U. (1982) The Crises of Indian Legal System, *Alternatives in Development: Law*. Stranger Journalism: pp. 4-5.

³¹ Bandhopadyaya, D. (2014) Forward to Mehrotra, S. (ed.) (2014) *Countering Naxalism with Development: Challenges of social justice and state security*, New Delhi: Sage Publications: xi-xvi. p. xv.

However, due to ideological differences and churning of many ideas, AICCCR subsequently split up on organisational and tactical issues into more than two factions. Later, the two factions consolidated themselves in forms of party organisations: (1) Communist Party of India (CPI) (Marxist-Leninist) in May 1969 and (2) Maoist Communist Centre (MCC) of India in October 1969. Both of these converged on the idea of “armed struggle.” The first flourished under Charu Majumdar’s charismatic leadership in energizing the cadres and providing drift to make it a broad-based one, while the second was founded and guided by Kanhai Chatterji. In 2004 the two major parties – the CPI (Marxist-Leninist) People’s War and the MCC – united to form the Communist Party of India (Maoist). This unification was coincided by the aggressive corporatization of common property resources in rural and predominantly Adivasi regions.³²

The initial and immediate political objective of armed struggle was to realize democracy and not socialism; hence, it took the form of a multi-class alliance that included the rich, the middle class, as well as the poor and landless peasants.³³

According to the Naxalites, the agrarian sector in India was still ‘semi-feudal’ and ‘semi-colonial,’.. dominated by economically unproductive large landlords tainted in three particular ways. First, members of the landlord class in India were seen as the local representatives of foreign capital. Second, these proprietors were deemed to be interested only in rental income extracted from sharecropping and/ or bonded labour relations. And third, as such they were held to be an obstacle to capitalist development. It was against these large landed but supposedly non-capitalist proprietors that the Naxalite ‘people’s war’ was to be waged.³⁴

However, in the course of time the movement experienced several ups and downs that have led to its fragmentation due to ideological differences and demoralization including physical elimination of its best ideologues and leaders by the schizophrenic ruling elites. However, many organizations – armed splinter groups and vigilante militia engaged in armed struggles – created and facilitated by the elite and the state to demoralise and counter people’s struggle too are presently referred to as “Naxalite movements” or in state parlance as “Left Wing Extremism” and their members as Naxalites or as per the state, Extremists.

Presently, the Communist Party of India (Maoist) has a mass base among the displaced, dispossessed, and marginalized societies such as Dalits, Adivasis (Tribals) and others. This is due to the continued inability of the state machinery to ameliorate the long-standing exploitation, oppression and unresolved genuine grievances of these marginalized groups of Indian citizens.³⁵ A succinct description of the nature of oppression and exploitation of Adivasis in India could be glimpsed in the short quotation below. Similar processes oppression and exploitation of the weaker sections of Adivasis continue uninterrupted in almost all predominantly Adivasi regions of the country.

³² Sundar, N. (2012) ‘Insurgency, Counter-insurgency, and Democracy in Central India,’ in Robin Jeffrey, Bonojoy Sen, and Pratima Singh (eds.) *More than Maoism: Politics and Policies of Insurgency in South Asia*, New Delhi: Manohar Publishers: 149-168.

³³ Kunnath, J. G. (2006) ‘Becoming a Naxalite in rural Bihar: Class struggle and its contradictions,’ *Journal of Peasant Studies* 33(1): 89-123. Also see Shah, A. (2011) ‘India Burning: The Maoist Revolution’ in Clark-Deces (ed.) *A Companion to the Anthropology of India*, West Sussex: Blackwell Publishing Ltd.: 332-351.

³⁴ Ibid., p.92

³⁵ Saxena, K.B. (2009) ‘The Naxalite movement and the crisis of governance: Reform measures for regaining people’s trust,’ *Social Change* 39(4) 475-503.

In almost the entire Sagbara taluka of Bharuch district in Gujarat, an average tribal has to earn three rupees in order to enjoy just one of them. He is made to surrender the remaining to those who take advantage of his political powerlessness. There would have been no need of any welfare programmes, subsidies, and loans for the Sagbara tribals by the state, if only the government could make it possible for the tribals to get their earnings in full. But state agencies like the police are often the chief culprits who extort hard-earned money from the poor tribals.³⁶

Unrestricted exploitation and oppression of economically impoverished sections of historically marginalised societies in India has been a harsh reality that still continues despite the tall claims India makes of its spectacular economic growth. A recent book *Read Tape* by Akhil Gupta argues that the state-society relationship in India is characterised by *structural violence* which has been most sharply visible while the state engages itself with Adivasis, economically the 'poorest' people in India. "With tribal groups one sees the logic of primitive accumulation – which depends on the dispossession and displacement of people already living on mining lands – with sharp clarity. The pattern of growth after liberal 'reform' will ensure that the poor continue to be killed against the backdrop of a shining India."³⁷ Structural violence unabated, of course, engenders direct violence in myriad forms.

One of the most important reasons why Naxalism or extremism in India continues is the refusal to accept any serious analysis of the phenomenon to disclose its deeper causes. Most reports and working papers, presented by the Law Commission of India and other such state-sponsored committees to study LWE continue to remain *mere inventories of crimes related to terrorism*.³⁸ A recent work has pointed out, "Most Indian states have tended to ignore potentials of PESA to their peril. Realizing the potential of the PEASA Act would enable STs in LWE districts to realize their potentials as citizens, and help the state to realize its objective of utilizing the resources of the Scheduled Areas, where tribals live."³⁹ However, the Jharkhand government has conveniently avoided the most important provision in section 4(1) of the central PESA Act that invests power with Gram Sabah (village council) to be consulted prior to any acquisition of land for so-called "development purpose," which most often would be for mining or setting up industries or huge dams to support industries to the perils of Adivasis and the natural environment.

Insurgency in Predominantly Adivasi Regions

*The real issue is of justice. In the present/ prevalent system where justice is not available to people, they are led to revolt and move by extreme paths. Hence, the Maoists get the support of the most marginalized people.*⁴⁰

³⁶ Kalathil, M. (1986) 'Extortion by Police: Tribals' Everyday Plight,' *Economic and Political Weekly* 21(15): 617-618.

³⁷ Gupta, A. (2012) *Read Tape: Bureaucracy, Structural Violence, and Poverty in India*, Durham and London: Duke University Press: p. 190.

³⁸ 'Law Commission's view of terrorism,' *Combat Law*, February 12, 2010: p. 2 (emphasis added).

³⁹ Sharma, B.D. (2014) 'Panchayats (Extension to the Scheduled Areas) Act: Realizing Its Potential,' in Mehrotra, S. (ed.) *Countering Naxalism with Development: Challenges of social justice and state security*, New Delhi: Sage Publications: 129-147.

⁴⁰ Ranjan, S. (2009) '*Maovad: muddha vikas nahin, nyay*' (Maoism: the issue is not development, but justice) *PrabhatKhabar*, October 10, 2009 (English translation by authors).

The spread of Naxalite movement in predominantly Adivasi regions of central eastern states began since the 1980s and accelerated with the introduction of market-led neoliberal capitalist policies variously termed by the ruling elites in India as “economic reforms” from the 1990s.⁴¹ The consequences of these complex processes were increasingly felt in these regions in forms of erosion of traditional livelihood resources, – land, forest, minerals and water bodies. These processes have historically been rendering rural Adivasi societies dispossessed and vulnerable in the absence of any viable alternate possibilities to improve their lives.⁴²

While discussing the links between Maoism or left-wing-extremism and Adivasi societies in mineral-rich rural areas, several studies have repeatedly pointed out that LWE finds favour with these historically marginalized societies since they have been deprived of the fruits of “development.” Mihir Shah, for example, argues that Adivasi predicaments must be seen as an intrinsic consequence of an over-centralised, non-location-specific, trickle-down development paradigm.⁴³ “One particular dimension of deprivation that the SCs and the STs in LWE districts have faced is the erosion of common property resources.”⁴⁴ “Adivasis as a whole have gained least, and lost most from six decades of democracy and development in India. They are even more deprived than the Dalits.”⁴⁵ Moreover, they have been unable to effectively articulate their grievances through the democratic and electoral process. The failures of successive post-independence regimes in India have left niches for Maoist revolutionaries to move into. Thus, there has been a twin tragedy simmering in predominantly Adivasi regions: first, the state has treated its Adivasi citizens with contempt and condescension; and the other, the Naxalites as Adivasis’ presumed protectors, offer been unable to provide any viable solution to Adivasis’ genuine grievances.⁴⁶

Interestingly, these processes of criminal neglect,⁴⁷ exploitation and oppression of economically impoverished Adivasis continue to remain alien to a vast majority of urban Indian upper and middle castes/ classes in India.⁴⁸ However, in recent times, there have been some debates about

⁴¹ Bates, C. & Shah, A. (eds.) (2014) *Savage Attack — Tribal Insurgency in India*, New Delhi: Social Science Press.

⁴² Shah, A. (2013) 'The Agrarian Question in a Maoist Guerrilla Zone: Land, Labour and Capital in the Forests and Hills of Jharkhand, India', *Journal of Agrarian Change* (Special Issue: Agrarian Transitions and Left Politics in India) 13(3): 424–450.

⁴³ Shah, M. (2002) 'The Adivasi question,' *The Hindu*, April 02:

<http://www.hindu.com/2002/04/02/stories/2002040200591000.htm> (retrieved on March 2, 2013); See also Mehrotra, S. (ed.) (2014) *Countering Naxalism with Development: Challenges of social justice and state security*, op. cited.

⁴⁴ K.B. Saxena 'Access of Scheduled Castes and Scheduled Tribes to Common Property Resources,' in Mehrotra, S. (ed.) *cited above*: 84-106.

⁴⁵ Kujur, R. K. (2006) 'Underdevelopment and Naxal Movement', *Economic and Political Weekly*, February 18: 557-50.

⁴⁶ Ibid.

⁴⁷ Kannabiran, K. (2015) 'The absence of state accountability is at the core of issues facing tribal communities.' 'The burden of criminal neglect,' *The Hindu*, January 3.

⁴⁸ In this context, it is important to note the statement of a Bench of the Supreme Court of India led by Justice A K Patnaik reported in *The Indian Express*, “Emphasizing on validation of rights of tribals and forest dwellers over the forest lands, the Supreme Court has said that Naxalism was a result of an oversight of constitutional provisions relating to administration of schedule areas and tribes of the country. “Nobody looks at Schedules V and VI of the Constitution and the result is Naxalism. *Urbanites are ruling the nation*. Even several union of India counsel are

the extent of Adivasis' involvement with LEW which have highlighted several aspects about the point in discussion. Arundhati Roy, for example, views LWE and Adivasi world-views in their broadest context, including sociocultural, religious, economic, historical and political, to highlight deprivations of Adivasis and their 'alternative imaginations' of who they are – Adivasi subjectivities – which do not fit within the so-called “modern,” “civilized” capitalist culture and development paradigms. Alpa Shah, on the other hand, explains the complexities of any generalization related to Maoism and Adivasi identity, besides posing certain caution towards the trends of depicting Adivasis as Maoists/ Naxalites. She urges her readers to be cautious while drawing hasty conclusions that tend to neglect field-based analysis and related historical processes of class/ caste conflicts and contexts, including Adivasi cultural ethos and history.⁴⁹

Obviously, to make any definitive statement about such an extremely complex matter of what has been the extent of Adivasis' involvement with LWE and its outcomes goes beyond the scope of this report. However, like any other people's movements, LWE too will have to learn to obtain its objectives and aims by trials and errors while interacting with deprived sections of Adivasi societies. At this point it is worth citing a quotation from an appeal made by the People's Liberation Guerrilla Army (PLGA) to unemployed boys and girls of Bastar urging them not to join the government's armed forces:

you will not get salary but food, cloths, personal needs will be fulfilled and your families would be helped the Janatam Sarkar. What you will earn will be love and affection of the people. Whereas those who join government armed forces will get salary and right to loot, kill and rape but also earn undying hatred of the people and you will not be remembered. Instead your death will be celebrated.⁵⁰

Gautam Navlakha who has studied Naxalite movement among Adivasis in Chhattisgarh says, “Unlike the Indian ruling classes mimicking their colonial masters or imbibing Brahmanical culture, the Maoists were assimilating themselves with the people's culture. It is difficult for me to know who was who from outside and who indigenous, as everyone looked more or less the same and spoke and wrote Gondi.”⁵¹ This is a clear indication that unlike the Indian middle class, who look down up on Adivasis and Dalits, the PLGA, in this case, has accepted and has respect for Adivasis as they are without having to “civilize” and “develop” them.

oblivious of these provisions under the Constitution,” said a Bench led by Justice A K Patnaik. The Bench made a reference to Schedules V and VI as they contain various provisions relating to administration and control of scheduled areas and scheduled tribes in several parts of the country. These provisions apply to states like Andhra Pradesh, Jharkhand, Gujarat, Himachal Pradesh, Maharashtra, Madhya Pradesh, Chhattisgarh, Orissa and Rajasthan and Northeastern states such as Assam, Meghalaya, Tripura and Mizoram. Essentially these Constitutional provisions, with the help of plethora of judgments by the apex court, act as a guarantee to indigenous people on the right over the land they live in and its produce” (<http://archive.indianexpress.com/news/naxalism-a-result-of-an-oversight-of-statutes-says-sc/1011015/0>, retrieved on 24 February 2015, emphasis added).

⁴⁹ Shah, A. (2012) “Eco-incarceration? ‘Walking with the Comrades,’ *Economic & Political Weekly*, May 26, 47(21): 32-35; Shah, A. (2013) ‘The intimacy of insurgency: beyond coercion, greed or grievance in Maoist India,’ *Economy and Society*, 42(3): 480-506, and Roy, A. (2010) ‘Walking with the Comrades: Report from Maoist Political Base Areas in India's DK Forest’, *Outlook Magazine*, March 19.

⁵⁰ Cited in Navlakha, G. (2012) *Days and Nights in the Heartland of Rebellion*, New Delhi: Penguin Books India: p. 86.

⁵¹ *Ibid.*: p. 89.

Displacement, Dispossession and Adivasi Resistance

Predominantly Adivasi territories in India possess huge deposits of minerals. These hilly and undulating terrains were once covered with forests and perennial water sources. Adivasis depended on these forests for more than 50 per cent of their subsistence needs. These were destroyed by commercial exploitation since latter half of British-led Indian colonial period. This not only disturbed the ecosystem, but also impoverished Adivasis in multiple ways with little viable/ reliable alternate sources of livelihood resources to substitute this loss. Later, since the discovery of mineral deposits, overexploitation of which has been continued with little benefits returning to Adivasi societies.⁵² The basic contradiction is that while the deprived sections of Adivasis have progressively been displaced, rendered homeless and impoverished by exploitative and oppressive elements along with uncontrolled processes exploitation of forests, lands, minerals and water-bodies in territories inhabited by Adivasis, the ruling class in India qualifies these process as “national development.” In November 2010, Dr. Manmohan Singh, the Prime Minister of India admitted, “There has been a systemic failure in giving tribals a stake in the modern economic processes that inexorably intruded into their living spaces... The systemic exploitation and social and economic abuse of our tribal communities can no longer be tolerated.”⁵³

Among the worst excesses committed in India’s six decade-old democracy, the forcible displacement of rural Indians in the name of nation-building ranks high up. And within this, the brunt of the oppression, emanating from the state’s claim of eminent domain, has been borne by India’s adivasis. In 2011, the Twelfth Five-Year Plan blandly noted that of the estimated 60 million people displaced in development projects since independence, as many as 40% were Adivasis; their share in the general population has hovered around 8%. That Indian society lacks qualitative or quantitative insight into violence against such communities for developmental and industrial projects is a measure of how policymakers and citizens have routinely devalued the adivasi point of view and experience.⁵⁴

However, the National Democratic Allegiance (NDA) government under Narendra Modi’s leadership has attempted to alter several protective legislations that favoured Adivasis. A glaring example of this regime’s intention to grab Adivasis’ land was the recent Land Acquisition Bill 2014 which got lapsed, despite repeated attempts to be re-promulgated. This Bill not only undermined several provisions in favour of the land owners in the Land Acquisition Law 2013 but also clearly intended to speed up land grab by national and multinational corporations.⁵⁵ The

⁵² Banerjee, R. (2007) ‘Adivasis and Unjust Laws,’ *Economic and Political Weekly* September 29, 2007: 4010-11; Joshi, S. (2003) ‘Defunct Democracy,’ *Down to Earth*, July 31: 26-37; Corbridge, S. (1996) ‘Ousting Singhbonga: The Struggle for India’s Jharkhand,’ in P. Robb (ed.) Delhi: Oxford , *Dalit Movements and the Meaning of Labour in India* .150-University Press: 121

⁵³ Quoted in Dandekar, A. & C. Chantrangada (2011) ‘PESA, LWE and Governance: Concerns and Challenges in India’s Tribal Districts’ a study commissioned by Ministry of Panchayati Raj, New Delhi: p. 1.

⁵⁴ Choudhury, C. (2013) ‘Adivasis and the New Land Acquisition Act,’ *Economic and Political Weekly*, 48(41) (Web Exclusive) October 12: p. 1.

⁵⁵ Sundar, N. (2015) ‘Land Acquisition and Modi in Dantewada,’ Thursday, May 14 available from: <http://nandinisundar.blogspot.in/2015/05/landacquisitionandmodiindantewada.html> ; Levien, M. (2015) ‘Dispossession, development and democracy,’ *The Hindu*, February 4.

well-known writer-activist, Arundhati Roy succinctly sums up the ruling elites' intend to grab the little resources the most deprived possess and the latter's struggle to defend their constitutional rights:

the Mining companies are getting restless. The MOUs that were signed handing over Adivasi land to them have not been actualized because of the resistance from local people. Operation Green Hunt continues as Operation No-Name. The Salwa Judum is being re-constituted. Once again [Special Police Officers] SPOs are beginning to kill villagers and call them Naxalites.⁵⁶ Anybody who criticizes or impedes the implementation of State policy is called a Maoist. Thousands of Dalits and Adivasis, thus labelled, are in jail absurdly charged with crimes like Sedition and Waging War against the State under the Unlawful Activities Prevention Act (UAPA). While villagers languish for years in prison, with no legal help and no hope of justice, often not even sure what crime they have been accused of, the State has turned its attention to what it calls 'OGWs'—Overground Workers.⁵⁷



Figure 3: one of the underlying logics of unrest and conflict in predominantly Adivasi regions in India

Maoist movements, despite its many ups and downs in predominantly Adivasi regions, have certainly contributed to highlight the continuing struggles and resilient resistance of impoverished Adivasis to protect their traditional livelihood resources. Consequently, Adivasis' struggles have also become a part of development discourses at national and international forums. Maoists have also succeeded in mobilizing Adivasis to pose serious challenges against the onslaught of land-grab (corporatisation) in the name of development in a few forested, hilly and mineral-rich regions such as Dantewada and Saranda.⁵⁸

⁵⁶ For details of "Operation Green Hund," "Salwa Judum," and "SPOs" see Dayal, K. (2010) 'Silence that is disposable,' *Combat law*, 22 July: 1-3.

⁵⁷ Roy, A. (2015) 'Branding Adivasis and Activists as Maoists the Government has declared a War on its Own People,' August 19: www.indiaresists.com. (received on August 15, 2015)

⁵⁸ See Navlakha, G. (2012) *Days and Nights in the Heartland of Rebellion*, New Delhi: Penguin Books India; Dungdung, G. (2015) *Mission Saranda: A War for Natural Resources in India*, Desha Prakashan Bihar-Jharkhand.

Adivasis being Hunted as Naxalites

While LWE acquire a favourable niche, conducive for strategic guerrilla warfare and forging some support-base among dispossessed and marginalised Adivasis in inaccessible areas, the state in India deploys its repressive arm on Adivasis making these territories into a conflict zones. The situation has further been made complex by several vigilante militias – like Salwa Judum, *Santi Senas* and breakaway factions of LWE forming themselves into armed criminal gangs.⁵⁹ These are created, encouraged and maintained by the ruling elites to demoralise and counter Maoist movements among Adivasis.

The adivasis regard the Maoists as their friends for it is these rebels who have stood by them. All the normal channels of redress are closed for them. The police beat them. The political parties – be they the Congress or the Bharatiya Janata Party – are with the Salwa Judum. The courts do not give them a hearing. The media does not care. Where else will they go except to the Maoists? When the police attack them, it is the Maoists who save them... This is the fight of the poor. If the centre thinks it can crush these people, it is mistaken. Sometimes extreme oppression can embolden those who are fighting... When the adivasis tried to run away from these sheds [created to keep those made homeless by the CRPF], this “patriotic” force would shoot on them, catch them and put them in jail, rape them. ... At one point, there were 54,000 people in the camps, from 1,000 villages. The government claimed it had “sanitised” 644 villages. Fifty thousand adivasis had run away to the jungle. That is when the Chief Minister (CM) Raman Singh declared that those who have come to the camps are with us, and those who have run away are with the Naxalites. Hence, shoot them (those chose to stay at their homes).⁶⁰

The Salwa Judum forces want liquor, chicken, mutton, women; and they want these every day. They take these from the adivasis. We are blind to that. But when the adivasi picks up a lathi to oppose the police, we cry foul.... You are sowing the seeds of violence and mayhem. Before Salwa Judum, Maoists numbered only 5,000. After Salwa Judum, the Maoist strength grew to 1,10,000 – a 22-fold increase. After Operation Green Hunt, every surviving adivasi will become a Maoist full-timer.⁶¹

The situation becomes all the more troublesome for Adivasis as they are being pressed by both by a violent and repressive state and various armed criminal gangs ravaging their villages. Several news reports about instances of Adivasis being shackled within their homelands explain how conflict-ridden these regions have turned to be.

At the age of 17, Kawasi Himde was arrested for “being involved in the killing of 23 policemen” in Dantewada district of South Chhattisgarh. A young girl, full of energy, at the time of her arrest in 2008, a tired Kawasi Hidme walked out of jail three days ago when a Dantewada court found her not guilty. “I was never involved in any Maoist activity. Yet, I have lost seven years of my life. I am exhausted now with a number of health issues caused by police torture. What was my fault?” she asks.⁶²

The disturbing Jangampal incident is a typical example of how, every time Maoist activity intensifies in Chhattisgarh's Bastar division, adivasis are picked up and framed as Maoists or sympathisers who

⁵⁹ Jharkhand presently has more than 17 fractions of what the commercial media and the state term under the generic label “Left Wing Extremism (LWE).” Out of Jharkhand’s 24 districts 18 are declared to be affected by it.⁵⁹

⁶⁰ Kumar, H. (2009) ‘Who Is the Problem, the CPI (Maoist) or the Indian State?’, *Economic and Political Weekly*, 44(47): 8-12.

⁶¹ Ibid. Also see PUDR (2015) ‘युद्ध-क्षेत्र में आदिवासी जिंदगियाँ: बीजापुर के बाँवों में सुरक्षा कैंप के बीच असुरक्षित जीवन’ (Life of Adivasis in war-zones: insecure lives of Adivasis in Bijapur village among security forces), Delhi: PUDR.

⁶² Dhat, P. (2015) ‘Acquitted after 7 years, tribal woman says she was tortured,’ *The Hindu*, March 3.

aid them in anti-state activities. While some of these villagers are released after preliminary enquiries, most waste away in prisons for years unaware even of the charges against them -- point to flimsy charges, forced confessions and shoddy investigations... Considering that the police intensify search operations after every round of heightened Maoist activity, the latest attacks are likely to trigger a fresh round of random arrests. Sadly, the war continues.⁶³

The forth chapter of this report brings forth many more similar stories of how Adivasis, mostly those assertive among them, in Jharkhand have been accused, arrested, tortured and imprisoned, literally adding insult to injury. The ruling class/ castes' deliberate misuse of criminal justice system to terrorise and oppress Adivasis who stand up to assert their constitutional and human rights.

Insurgency and the State in Jharkhand

Alpa Shah's *In the Shadows of the State: Indigenous Politics, Environmentalism, and Insurgency in Jharkhand* eloquently delineates several complex linkages between the so-called "left-wing extremism," rural Adivasis and the Jharkhand state. The book explicates how Adivasis get caught up between the state's repressive forces and armed criminal gangs.⁶⁴ In one of her works, she says that armed terror groups in Jharkhand sell both terror and protection. Often their customers are elite politicians, industrialists and other such agents of the state in Jharkhand, which finds itself little legitimacy with Adivasis for its existence.⁶⁵ There exists clear nexus among Maoists, politicians, mafias of various kinds, industrialists, contractors and bureaucrats who constitute the state in Jharkhand.⁶⁶ Moreover regional states whose districts, qualified to be

⁶³ Raza, D. (2015) 'The curse of Bastar: Tribals caught in the war against Red terror,' *Hindustan Times*, Apr 26.

⁶⁴ Shah, A. (2010) *In the Shadows of the State: Indigenous Politics, Environmentalism, and Insurgency in Jharkhand*, India, Durham and London: Duke University Press. However, in this work, Shah does not clearly distinguish between the networks of armed criminal gangs and Maoist movements as such.

⁶⁵ Shah, A. (2006) 'The Markets of Protection "Terrorist" Maoist Movement and the State in Jharkhand, India', *Critique of Anthropology* 26(3): 297-314; also see Shah, A. (2011) 'Alcoholics Anonymous: The Maoist Movement in Jharkhand, India,' *Modern Asian Studies*, 45(05): 1095-1117; and Kunnath, G. J. (2004) *Under the Shadow of Guns: Negotiating the Flaming Fields of Caste/Class War in Bihar, India*, *Anthropology Matters*, 6(2).

⁶⁶ There are numerous newspaper reports that clearly bring out such nexus, "According to sources in the jail, Sunil Srivastava [a criminal gang leader] was lodged in a high-security cell and had access to many facilities normally denied to an inmate, including mobile phones. The money his gang made outside also made their way to his prison cell and bought chicken meals and dry fruits for him... Baba also knew politicians in Jharkhand as well as in Bihar 'they had good relationship with him', said a jail source, but refused to name anyone [Jaipurian, V. (2015) 'Baba, the don, who didn't want bail,' *The Telegraph*, June 4]. Also see 'Thanedar se SP takki koyala mafia se sathganth (The Coal mafias have their linkages from Policemen to SP),' *Dainik Jagaran*, June 5, 2015; Inder Singh Namdhari, a former Member of Parliament from Chatra Jharkhand and a former speaker of Jharkhand Legislative Assembly, was the chairperson of the vigilance committee of development works in Garwa, Lohardaga and Palamu. These three districts have been externally LWE affected. In 2011, he wrote an article in view of the annual celebration of Jharkhand becoming a separate state, "My colleague in a construction department is also a contractor in Palamu block for road construction. While the construction work was on, the Superintendent of Police (SP) of one of the three districts in the division called up my colleague contractor and demanded Rs. 100,000. He threatened that if the sum was not paid, contractor would be put in jail with charges of planting land-mines on road to brand him as a Naxal/ extremist. My colleague succumbed to this pressure and paid the amount. After a week again the SP called up and demanded the same amount of money. However, this time my colleague informed me and asked my

“infected by left wigs extremism,” benefit in many ways from special financial packages to counter extremism.⁶⁷ Moreover, declaring certain mineral and forest-rich pockets as being so affected also provide opportunities for industrialists to safely advance their interests, accompanied by armed forces, into these predominantly Adivasi pockets that are constitutionally protected. Often District Collectors (DCs), and Superintendents of Police (SPs) who head the district administration in these areas not only benefit from the special funds allocated but also justify the forceful opening up of these areas for mining in these otherwise restricted Fifth Schedule areas that are predominantly inhabit by Adivasis who oppose land alienation locally.⁶⁸

While the state supported corporates have successfully been resisted from grabbing Adivasi land by stiff opposition for the very reasons that such instances of land-grab have often been unjust, unconstitutional and have progressively impoverished Adivasis, the state has failed to make any meaningful investment in rural agrarian infrastructure to provide alternate livelihood opportunities to marginalised rural populace.⁶⁹ Moreover, in Jharkhand where Adivasi land, in principle, have been protected by the Chotanagpur and the Santal Pargana Tenancy Acts (CNTA 1908 and SPTA 1949). An Adivasi villager in these territories could clear and uncultivated ‘wasteland’ to make it cultivable with the permission of the concerned village headmen before the 1963-65 settlement took place. However, Bihar government declared such wastelands as state-property during the last settlement. Presently, about 40 per cent of total land in Jharkhand’s scheduled areas belongs to the state.⁷⁰ Consequently, rural Adivasis are deprived of their rights to land resources while the fragmented pieces of land legally held by Adivasis have progressively been eroded due to absolute neglect of investment in agrarian infrastructure to improve land-productivity.

A realistic description of the extremely pathetic and hopeless situations of impoverished Jharkhandis in the industrially “rich” Singhbhum given (below) might well be applied to the entire rural geography of Jharkhand.

interference in the issue to stop the SP from demanding more levy. I called up the SP and told him not to disturb the contractor, since he is a close friend of mine. There was no effect of my words; the SP did not decline from his demand. Finally, I informed the director of vigilance. I have no idea what action he took, however, there was no more disturbance afterwards” [Namdhari, I.S. (2011) ‘A ruler should follow Chanakya’s Policy,’ translated from Hindi by the authors, *Dinik Jagaran*, November 28: p. 9].

⁶⁷ See Deeptiman, T. (2014), ‘Outgoing CRPF Chief – Some states want Maoism to continue,’ *Times of India*, November 28; “Stoking Maoist/ Naxalite fear has become a lucrative business for various agencies of the State to corner public funds” Navlakha, G. (2012) *Days and Nights in the Heart of Rebellion*, op cited: p. 14.

⁶⁸ See Dungdung, G. (2015) *Mission Saranda: A War for Natural Resources in India*; George, A.S. (2009) ‘The Paradox of Mining and Development’, in N. Sundar (2009) op cited: 157-188; Puthumattathil, A. (2014) *Colonialism and Racism uninterrupted: Evidence from India with special reference to the Hos of Jharkhand*, a PhD. Dissertation Department of Conflict and Development, Faculty of Political and Social Sciences, University of Ghent, Belgium.

⁶⁹ Stuligross, D. (2008) ‘Resources, representation, and authority in Jharkhand, India’, *Asia Pacific Viewpoint* 49(1): 83–97; Prakash, A. (2001) *Jharkhand: politics of development and identity* New Delhi: Hyderabad: Orient Longman; Jewitt, S. (2008) ‘Political ecology of Jharkhand conflicts’, *Asia Pacific viewpoint* 49(1): 68-82.

⁷⁰ Upadhya, C. (2009) ‘Law, custom and Adivasi Identity: Politics o Land Rights in Chotabagpur,’ in Sundar (ed.) *Legal Grounds: Natutral resources, Identity, and the land in Jharkhand*, New Delhi: Oxford University Press: pp. 30-55.

The basic phenomenon that characterizes the situation of the indigenous people .. is that of dispossession. The process of this dispossession permeates in all spheres of their lives – economic, social, political and cultural. The systemic dispossession has reduced them to a situation of extreme poverty and powerlessness, made them victims of exploitation, oppression and dehumanized them. The culmination of this process of exploitation, oppression and dehumanization has been the culture of silence reducing the oppressed to mute emasculated objects devoid of their humanity and their authentic possibilities. The only way out is to build a new society based on equality, justice and righteousness supported by self-dignity, self-reliance and freedom.⁷¹

Extremism and criminal-gangs breed in such situations.⁷² However, it might be naïve to say that the entire Adivasi population is so impoverished, since there have been a select few (a creamy layer) who have been disproportionately benefiting from such an exploitative system that impoverishes a vast majority. This phenomenon is the outcome of the present development paradigm promoted by the state in India and it is better explained in chapter-5 of this report.

The strategies being employed to accelerated exploitation and oppression in Adivasi regions are multipronged: (1) deprive the people of their access to common property resources, such as land, forest, water-bodies and minerals; (2) make little investment in rural infrastructure, divert the funds to other areas and mismanage whatever funds have been allotted for developing rural agrarian infrastructure; (3) encourage increasing commoditisation and corporatisation of common property resources; (4) deploy more police and paramilitary forces to suppress people’s resistance movements and to instil fear in people to restrain from asserting their constitutional rights; and (5) employ the century’s criminal justice system to foist false cases to persecute those Adivasis and their friends who assert their human and constitutional rights. Moreover, incidents of fake encounters whereby the police/ CRPF kill Adivasi civilians to be declared as Naxalites also testify the extent of state-led oppression and killing in the name of combating “extremism” in Jharkhand.⁷³

Fatalities in “Left-Wing Extremist” and repressive state interventions in Jharkhand: 2005-2015

| Years | Civilians | Security Force | ‘Extremists’ | Total |
|-------------------|------------|----------------|--------------|-------------|
| 2005 | 49 | 27 | 20 | 96 |
| 2006 | 18 | 47 | 29 | 94 |
| 2007 | 69 | 6 | 45 | 120 |
| 2008 | 74 | 39 | 50 | 163 |
| 2009 | 74 | 67 | 76 | 217 |
| 2010 | 71 | 27 | 49 | 147 |
| 2011 | 79 | 30 | 48 | 157 |
| 2012 ¹ | 57 | 24 | 48 | 129 |
| 2013 | 48 | 26 | 57 | 131 |
| 2014 | 48 | 12 | 37 | 97 |
| 2015 ² | 30 | 2 | 12 | 44 |
| Total | 508 | 307 | 445 | 1395 |

Table 3: Fatalities related to Left-Wing Extremist activities in Jharkhand: 2005-2015

⁷¹ Areeparampil, M. (1994) ‘Tribal Situation in Singhbhum: A critique,’ *Social Change*, 24(1&2): 75-90.

⁷² Bandhopadyaya, D. forward to Mehrotra, S. (ed.) (2014) *cited above*: xv.

⁷³ Kumar, R. (2015) ‘Fake combat cry in Palamau,’ *The Telegraph*, June 11.

¹ 2012 data is according to *Hindustan Times* July 19, 2015, reportedly from *Jharkhand Home Department*;

² 2015 data is till February 22, 2015.

Sources of data: http://www.satp.org/satporgtp/countries/india/maoist/data_sheets/ani_cas_jh.asp (this source states that the figures are compiled from news reports; and hence are provisional).

Jharkhandi Under-trials Accused as ‘Extremists’

Daily newspaper reports of Adivasis being falsely implicated as extremists and killed in fake encounters are not uncommon. Such reports also bring out the nexus between the police, politicians, industrialists, and administrators who constitute the state system. The state also uses LWE to justify its indiscriminate torture and killing of economically impoverished Adivasis.

Hindustan Times news daily on April 26, 2015 featured a few stories of several innocent Adivasis being accused as Maoists, arrested and imprisoned in Chhattisgarh. According these reports, while Adivasi men are being tortured and languish in jail, their family members face several troubles trying to get them out on bail besides their struggles to earn a living in the absence of the families’ main bread-winner. The newspaper thus captioned the gist of the story, “Violence in the red corridor between security forces and rebels has ensured that adivasis branded as Maoists languish in prison for years.”⁷⁴

An interesting story appeared in *India Today* described how young Adivasi men were lured by police department in Jharkhand through a crafty “surrender policy” for supposed Naxalites.

The silence is the story of 514 hapless Jharkhand men, most of them poor tribals with no history of breaking the law, who begged, borrowed or pledged their family wealth to raise the money to pay Bodra, risk the tag of a Naxalite and spend close to two years in the old Ranchi jail campus all in the hope of getting the low-paying job of a constable in the CRPF, of donning a uniform and escaping the drudgery of life in some of Jharkhand's most backward regions. It is also the story of fly-by-night operators joining hands with unscrupulous elements in the establishment to exploit a national security imperative for gain and fame.⁷⁵

Although Public Interest Litigations (PILs) are very rare in India,⁷⁶ a PIL filed by Jitendra Jain on behalf of “Fight for Human Rights” (FHR) alleged that there were thousands of “tribals” languishing in various central jails without any trial in Naxal-affected states like Chhattisgarh, Madhya Pradesh, Orissa, Jharkhand and West Bengal. Advocate K.R. Chitra, who argued on behalf FHR, stated that Adivasi under-trials were languishing in various jails for very long periods without any trial and as a result, unrest and hostilities were prevailing in tribal areas of the country. The PIL also said that often Adivasi under-trials were not informed about the grounds of their arrests; they were not even duly represented by lawyers of their choice as there are very few interpreters available in courts who can speak Adivasi languages; and hence, they are deprived of their fundamental rights of fair trials as they are unable to explain the real facts and circumstances to the judicial officers. Furthermore, the PIL stated that most of those,

⁷⁴ Raza, D. (2015) ‘The Curse of Bastar,’ *Hindustan Times* on April 26: p. 12.

⁷⁵ Amitabh, S. (2015) ‘The story of 514 hapless Jharkhand men who were lured into surrendering as Naxals,’ April 23.

⁷⁶ Giri, V. (2015) ‘PIL cases do not consume SC resources as they constitute only 1% of the overall case load of the SC,’ Gauri, V. (2011) ‘Fundamental Rights and Public Interest Litigation in India Overreaching or Underachieving?’, *Indian Journal of Law and Economics* (1)1: 71-93.

arrested in cases related Naxal-violence, were lodged in distant central jails, and hence, they and their relatives' rights to meet each other have also been denied.⁷⁷

A study of daily news reports on those arrested as 'extremists' in 2012 showed that there were thousands of Adivasis imprisoned in various jails of Jharkhand. The kind of accusations the police make while they randomly pick up villagers under the UA(P) Act are basically two types: (1) helpers of Maoists, and (2) a person possessing "Naxalite literature," although the term "Naxalite literature" is not even defined. Persons accused of being "helpers of Naxalites," are assumed to be "guilty by association." This practice of such detentions under vague assumptions and imposition of criminal codes by the police on Adivasis is rampant despite the Supreme Court ruling that a person's ideological association to any banned organization does not make him/ her a criminal unless he/ she is found engaging in any criminal activity or making others indulge in such activities.⁷⁸

Conclusion

This chapter has briefly reviewed Under-trials' life in India, certain striking issues highlighted from jail statistics, India's mal-functioning legal system, Naxalism and its spread in predominantly Adivasi regions, in general, and Jharkhand in particular. It has also highlighted how Adivasis are being hunted as Naxalites in their own homeland. The chapter has shown that structural and cultural violence that produce of more of the same and additional direct violence of torture, bloodshed and killing. While they form a vicious circle of a rotten sociocultural system that reproduces itself, the ruling elites, who benefit disproportionately from the present state of affairs, are unable even to recognize and acknowledge the rottenness and their causes. Such a state of affairs might further worsen the situation instead of reforming the system to reduce conflicts in the long run. In such a context, the state apparatus has been approaching this extremely complex issue of simmering insurgency arising out of long-standing, unresolved, genuine grievances by a narrowly perceived security centric approach which is flawed.⁷⁹

Maoist violence is the consequence of increased atrocities against scheduled castes and scheduled tribes (especially in the central tribal belt) and widespread tribal unrest due to commercialisation of forest resources. Ignoring such analysis and acting primarily on reports by the Intelligence Bureau, which is not equipped to study the multiple complexities of developmental conflicts, the Ministry of Home Affairs has resorted to brute police force to deal with the violence. But, as suggested by several reports, the problem should be handled politically and administratively, implementing the constitutional provisions for dalits and adivasis that have so far been ignored.⁸⁰

⁷⁷ 'Plight of jailed tribal under-trials 'serious': SC' *Decan Herald*, July 7, 2013.

⁷⁸Swamy, S. (2012) 'How long will the 6000 Jharkhandi Adivasis languish in jail?,' *Jharkhand Khabar*, March; Swamy, S. 'Free the innocent undertrials and Jharkhand's jails won't be overcrowded: ' available on <http://kafila.org/2012/12/15/freetheinnocentunder-trialsandjharkhandsjailswontbeovercrowdedstanswamy/> (retrieved on January 14, 2012).

⁷⁹ Saxena, K.B. (2014) "The Naxalite movement and State Policy" in Merothra, S. *Countering Naxalism with Development: Challenges of social justice and state security*, op. cited: 71-83.

⁸⁰ Subramanian, K.S. (2010) 'State Response to Maoist Violence in India: A Critical Assessment,' *Economic & Political Weekly*, 45(32): 23-26.

This approach of the state only help aggravates the troubles of Adivasis in rural areas who would be picked up from their homes and villages with false allegations of being Naxalites or being involved in LWE often based on misinformation and bias against Adivasis. Consequently, impoverished Adivasis come to bear multiple burdens of being falsely implicated in criminal incidents that occur due to those involved in armed criminal gangs aided by the state that cannot easily be traced and controlled by the police/ CRPF. The following chapter presents the main findings of our fieldwork with alleged Jharkhandi “Naxalites” and their experiences of facing multiple hardships, harassment and even severe physical torture that befall upon them due to such false allegations for no fault of theirs.

Chapter – 3

Data that Speak Themselves

This chapter presents the summary of the data by way of figures and tables. The chapter is organized into three parts – part A, B and C. Part A discusses the responses received from 2 jail administrators to RTI petition filed for information about under-trials arrested under section 17 CL and UAPA. Part B presents the demographic and socioeconomic status of respondents and part C presents information about the nature and types of accusation, and respondents' experiences of being arrested, imprisoned, and on-going trials.

A. Responses to RTI petitions

Information was sought via RTI petition Form – A [Rule 6(3) & 7(1)] about under-trial prisoners arrested under Unlawful Activities Prevention Act (UAPA) and section 17 of Criminal Law (17 CL) from 01/01/2012 to 31-12-2014 (three years).

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|-----------------|--|----------------------------|---------------------------|------------------------|-----------------|------------------------------|
| Prisoner-number | Prisoner's name, his/her father's name and address | Social group: SC/ST/OBC/FC | Date of entry into prison | Indicate UAPA or 17 CL | Conviction date | If bailed out, then its date |

Information received the administrators of 12 out of 26 jails in Jharkhand is as follows:

Responses to RTI Petitions received from jails

| Sl. No. | Name of the jail | Date of info. received | ST | SC | OBC | GEN | Total | Bailed out |
|--------------|-------------------------------|------------------------|------------|------------|------------|-----------|------------|------------|
| 1 | Divisional Jail Jamtara | 13/03/15 | 1 | 4 | 1 | 0 | 6 | all |
| 2 | BM Central Jail Hotwar Ranchi | 15/03/15 | 0 | 0 | 1 | 2 | 3 | all |
| 3 | Divisional Jail Deogarh | 16/03/15 | 0 | 1 | 5 | 1 | 7 | all |
| 4 | Divisional Jail Dhanbad | 20/03/15 | 2 | 3 | 0 | 1 | 6 | all |
| 5 | Divisional Jail Saraikela | 23/03/15 | 12 | 0 | 2 | 0 | 14 | NA |
| 6 | Sub-jail Rajmahal | 24/03/15 | Nil | Nil | Nil | Nil | Nil | Nil |
| 7 | Central Jail Dumka | 04/04/15 | 14 | 5 | 1 | 0 | 20 | all |
| 8 | Sub-Jail Khunti | 07/04/15 | 69 | 6 | 25 | 0 | 100 | NA |
| 9 | Divisional Godda | 08/04/15 | Nil | Nil | Nil | Nil | Nil | Nil |
| 10 | Divisional Jail Simdega | 17/04/15 | 67 | 9 | 41 | 1 | 118 | NA |
| 11 | LNJPN Central Jail Hazaribagh | 25/04/15 | 47 | 41 | 126 | 23 | 237 | NA |
| 12 | Divisional Jail Latehar | 01/05/15 | 38 | 32 | 93 | 8 | 171 | all |
| Total | | | 250 | 101 | 295 | 36 | 682 | |

Table 4: RTI Responses from Jail Administrators (Jharkhand)

As per the responses we received (table-1), the highest number of Adivasi under trials are in Khunti, Simdega, Hazaribagh and Latehar jails. Jails in Hazaribagh and Latehar also have the highest number of SC and OBC prisoners under trial. It is also clear that there is a striking preponderance of arrests occurring to persons from ST/SC/OBC social categories compared to that of General category. The fact remains 14 jail administrators did not respond to our RTI

petition and that the Inspector General of Prisons showed an intriguing inaction to our appeal regarding the non-response of jail administrators who did not reply to the RTI. Moreover, three jails in Kolhan division (Chaibasa, Jamshedpur and Ghatshil) which are in Jharkhand’s mineral corridor gave no response to our petition. Non-response from Chaibasa jail in Singhbhum West remains very crucial since it has been a predominantly Adivasi region with abundant forest and mineral resources, and falls under “red-corridor,” from where a significantly huge number of Adivasis have been arrested.

B. Demographic and Socio-economic Status

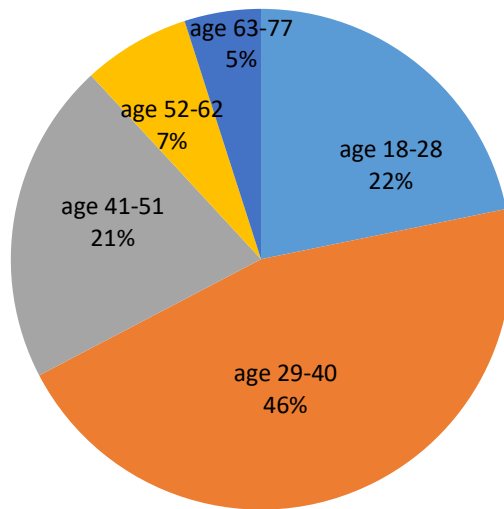


Figure 4 – Percentage of persons under specific age-groups

About 46 per cent of the persons under trial, under study, belong to the age-group of 29-40 years, the most productive years of one’s life. About 22 per cent of them belong to 18-28 years, the most creative years of one’s life. And about 21 per cent of them belong to the age group of 41-51 years. Those belong to more advance age-groups, such as 52-62 and 63-77, are seven and five per cent respectively.

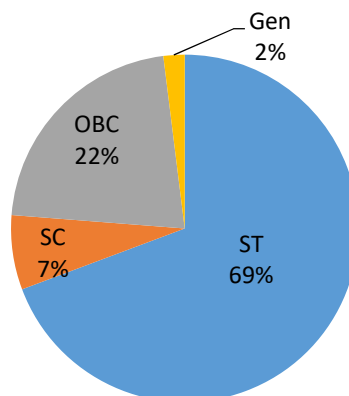


Figure 5 – Percentage of persons under each social group

The highest (69) per cent of persons under study belong to Scheduled Tribes or Adivasi social groups. Other Backward Castes constitute 22 per cent of persons under study; seven per cent of them belong to Scheduled Caste category and only two per cent fall under General category.

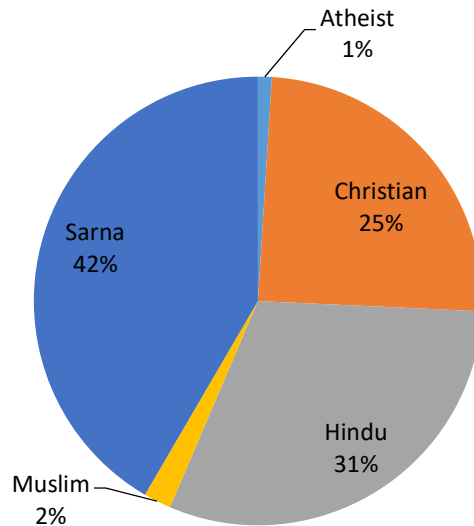


Figure 6 – Percentage of persons following various religious-traditions

About 42 per cent of the respondents affiliated themselves with Sarna (Adivasi) religious traditions; 31 per cent Hindu, 25 per cent Christian, two per cent Muslim and one person does not adhere to any religious tradition.

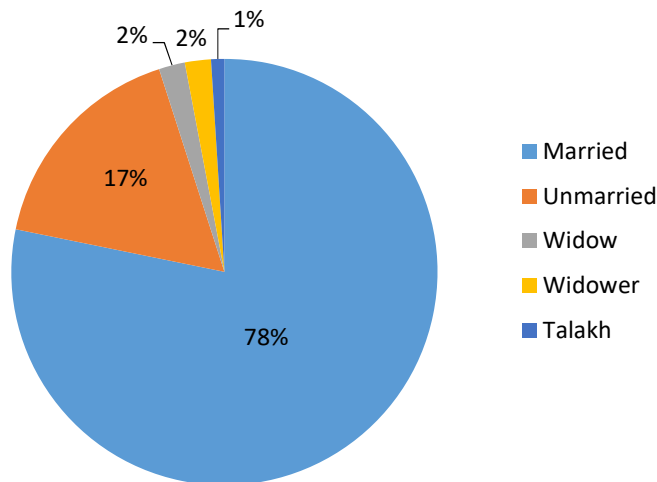


Figure 7 - Percentage of persons with various marital statuses

About 78 per cent of our respondents were married; 17 per cent unmarried, two per cent each were widows and widowers and one per cent separated.

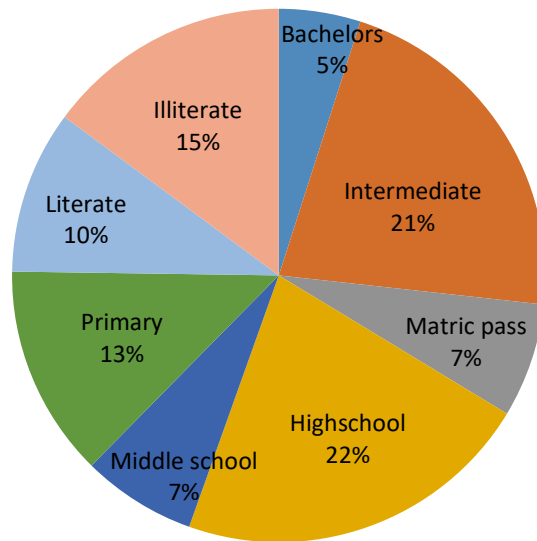


Figure 8 - Percentage of persons at various levels of educational attainments

Educational attainment of the respondents shows that about 22 per cent of them have made it to the High School level, 21 per cent intermediate, 15 per cent are illiterate, 13 per cent have made it only till primary school level, 10 per cent were literate without attending any school, seven per cent are drop-outs after attendance till middle school; five present are stop-outs after passing matriculation and only five per cent have made it to graduation level.

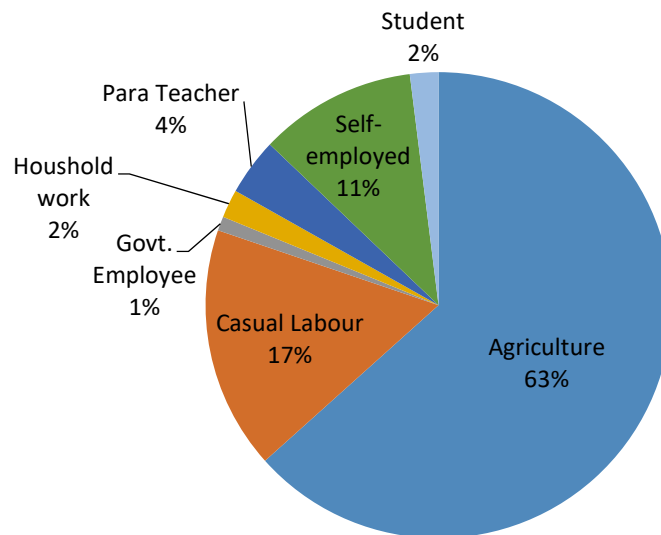


Figure 9 - Percentage of persons under various occupational categories

About 63 per cent of our respondents depend on agriculture for their living, 17 per cent on casual labour, 11 per cent are self-employed; four per cent worked as Para teachers, two per cent did household works, two persons are students and just one per cent (one person) was a government employ.

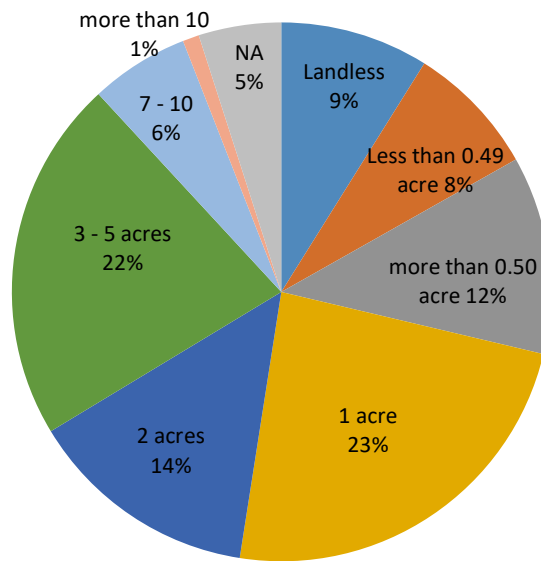


Figure 10 - Percentage of persons possessing different sizes of cultivable landholdings

Just one per cent possesses more than 10 acres of cultivable land; five per cent's data on land is not available; six per cent possess cultivable land between seven and ten acres; about eight per cent possesses cultivable land less than half an acre; nine per cent possess no land; 12 per cent possesses more than half an acre and less than one acre; about 14 per cent owns 2 acres of land; 22 per cent owns three to five acres of cultivable land; and 23 per cent owns an acre of cultivable land. The majority of them possess just one acre and less than one acre of land.

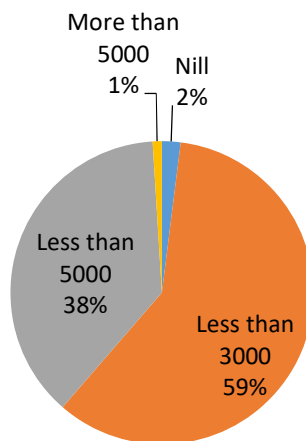


Figure 11 - Percentage of persons categorised under different monthly household-income groups

About 59 per cent of the respondents' households earn less than Rs. 3000 per month; about 38 per cent earn less than Rs. 5000 per month and just one person earn more than Rs. 5000 a month. Most of respondents are economically very poor.

C. Data regarding Arrest, Imprisonment, Bail, Crime, On-going Trials, etc.

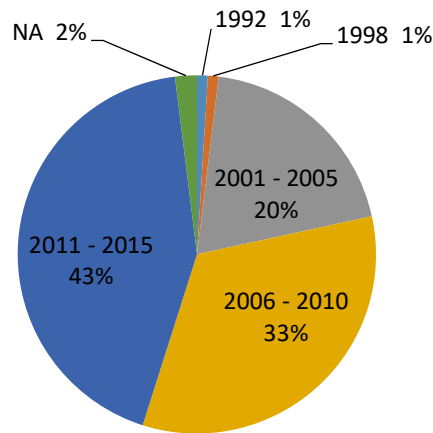


Figure 12 - Percentage of persons arrested during various years

Arrest of 20 per cent respondents took place during 2001-2005; 33 per cent during 2006-2010; 43 per cent during 2011-2015. The year of arrest of two per cent respondents could not be recorded. Besides these, one per cent each was arrested in 1992 and 1998.

| Time spent in jail | Number | % |
|--|------------|---------------|
| 0 -- 5 months | 20 | 19.61 |
| 6 -- 10 months | 39 | 38.24 |
| 11--12 months | 18 | 17.65 |
| 13 & above months | 9 | 8.82 |
| More than 10 years | 5 | 4.90 |
| Arrested & after a few days released by police | 4 | 3.92 |
| In jail | 6 | 5.88 |
| Interrogated by police | 1 | 0.98 |
| | 102 | 100.00 |

Table 5: Number and percentage of individuals and the time they spent in prison

The table shows the number and percentage of persons who have spent specific duration of time in prisons. About 38 per cent have spent six – nine months in prison. About 19 per cent less than six months and about 17 per cent has spent time up to a year in prison. There are nine persons (8.82 per cent) who have spent more than a year in prison. A few others have been in jail for several years, months and days as shown in the table. About six persons (5.88 per cent) are still in prison.

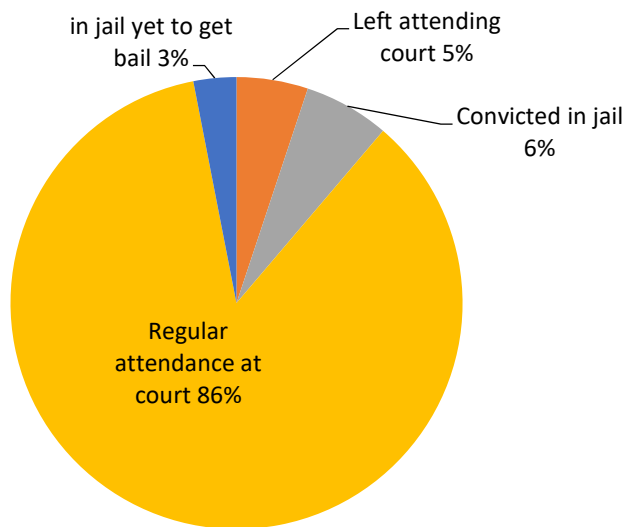


Figure 13 - Percentage of persons attending and not attending their court-dates

Out of the total respondents, about 86 per cent of them attends the court on the day of hearing of their case regularly. About 5 per cent of them has stopped attending the court, after having attended several times, due to fear of police harassment. About 3 per cent is still in jail trying to get a bail and about 6 per cent of them has been convicted out of which 3 per cent has made further appeals to higher courts.

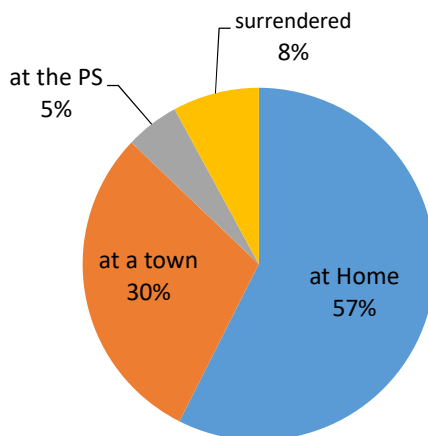


Figure 14 - Percentage of persons arrested at various locations

About 57 per cent of our respondents was arrested while they were at their homes; 30 per cent were arrested while travelling, at railway station or at a town while shopping, and so on; eight per cent of them said, they surrendered themselves on being informed that there was a case registered against them; and about five per cent of the respondents said that they were summoned by the police to the station ostensibly for some other purpose but on arrival, they were arrested. However, most of the charge sheets filed by the police state that these arrests were made from

forests. This mismatch is a clear indication that the police habitually fabricate cases against Adivasi villagers.

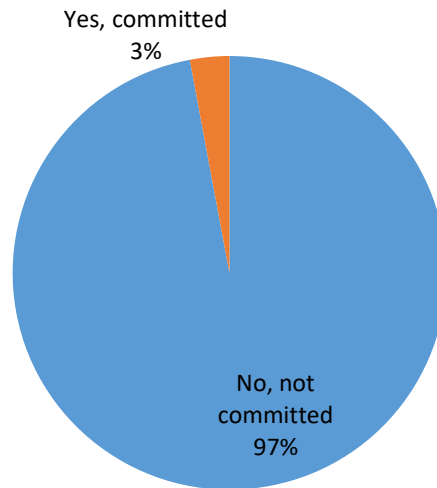


Figure 15 - Percentage of persons who accept that they have committed and not committed the alleged crime

Most clearly, about 97 per cent of our respondents, their co-villagers, and the research assistants who studied their cases have reiterated that they have not committed the crime the police have assigned to them. Just three per cent of the respondents has confessed that the crimes they have been accused having committed are true. However, out of these three cases one is a murder case related to reasons other than LWE; the other two cases are related to Naxalite activities such as demanding levy. Interestingly, while the reports of the police show that these persons were arrested from forests; actual arrests had taken place at their respective homes.

Summing up the Quantitative Data

About 46 per cent of under-trials under study belongs to the age-group 29-40 years and about 22 per cent belongs to age-group 18-28 years. Adivasi or Scheduled Tribes constitute 69 per cent of the respondents. About 42 per cent of them belongs to Sarna (Adivasi) religious traditions; 31 per cent Hindu, 25 per cent Christian, and two per cent Muslim. About 78 per cent is married and 17 per cent unmarried. The main occupation of about 63 per cent is agriculture and about 17 per cent engages in casual labour. About 22 per cent of the total respondents owns 3-5 acres of cultivable land; 14 per cent has two acres and about 23 per cent has an acre of cultivable land. However, about 59 per cent of respondents earns only Rs. 3000 and less as monthly income; 38 per cent earns less than Rs. 5000 per month.

The Arrests of about 93 per cent of all respondents took place during the last 15 years i.e., between 2001 and 2015. Location of arrests: about 57 per cent was arrested from their respective homes; 30 per cent from nearby towns or while travelling; 8 per cent surrendered at the court and about 5 per cent was summoned to the police station to be arrested. About 89 per cent of all respondents is under trial, and attends courts on a regular basis. About 5 per cent of them has

stopped attending the court due to fear of being harassed by the police again although their cases have not been disposed of. About 97 per cent of all respondents reiterated that the crimes they were alleged to have committed were fabricated.

Other Relevant Information

Other information received via the open-ended queries on the nature of accusations show that most of them follow similar patterns. For example, most of the roles the police have foisted on those arrested are that they have been members of Naxalite or LWE groups. In many cases, the police have imposed on them various sections such as 144, 147, 148, 149, etc. of the Criminal Law besides section 17 of Criminal Law and UAPA to justify the arrest of Adivasi villagers, who have no past criminal record. The police normally make them partakers of criminal incidents such as murder, possession of illegal arms or an act of demanding levy, etc. that have occasionally been committed in the locality by some armed criminal gangs who are generally termed as Naxalites or LW extremists.

Interestingly out of a hundred and two respondents about 19 of them are democratically elected representatives of *Panchayati Raj* Institutions (PRIs). A great majority of others are simple and hardworking Adivasi villagers who have begun to assert their Constitutional and human rights to land, forests and other natural resources that have been violated by an array of intruders/transgressors into their villages, such as *thikadars* (petty contractors), traders, merchants, land-grabbers, human, animal and wood traffickers, etc. who often act as “helpers of police.” While answering our queries as to how they would be able to prove their innocence contrary to reports made up by the police, we received several related answers as follows: “proper investigation by the police would prove my innocence,” “all my neighbours, friends and relatives know me and what I have been doing and they will testify my innocence.” From these replies as well as from the case-studies that follow in the next chapter, the message comes across clearly is that the police hardly conduct any reliable (scientific/ independent) investigation regarding criminal incidents that occur in remote rural villages, nor are they able to bring the culprits of such incidents to justice. Instead, they pick up anyone who is outspoken in Adivasi villages whose name the so-called “helpers of police” would provide.

While our respondents were in prison, about 82 per cent of them were visited by their family members who have been desperately trying to get them out on bail. While narrating their experiences inside jails, most respondents have said that the food and basic facilities inside jails were meagre and much below average quality. They said, “Jails are overcrowded; the jail manual has hardly been referred to or followed to provide basic facilities and services accordingly; almost all inmates had to pay bribe to get any facility or service by jail employees; even to visit, talk and pass any necessary thing to the imprisoned member of our family, we had to bribe the *sipahis* or guards who collect money ranging from Rs. 20 to 200 at the entrance of the jail. Moreover, when jail inmates fall ill and suffer both mental and physical pain, hardly any health care is being provided to them.”

While narrating their experiences of the criminal justice system, police and their administration, almost all our respondents have said that the police are oppressive: they are lenient with the rich

and prejudiced and exploit the vulnerability of economically poor people. While the rich are able to get away with any type of crime, the economically poor and often innocent men and women suffer undue punishment for crimes they have not committed. Several of our respondents said that the policemen were ill-equipped and unable to get those who had committed heinous crimes in the name of Naxalites. Consequently, the police pick up innocent villagers for they are under pressure from their higher ups to produce outcomes of their “operations.”

The following chapter presents a few individual case-histories that illustrate the plight of Adivasi villagers who assert their sociocultural, political and economic rights while being oppressed, exploited and looked down upon by the dominant so-called “mainstream” systems and ideology that encapsulate and intrude Adivasis’ alternate sociocultural imaginations and space incessantly.

Chapter – 4

A few Individual Cases

Case – 1 – Biren Guria – *Those who speak out assertively in Adivasi villages are “Naxalites.”*

Biren (45) is from a village at the heart of the famous Sal forest of Saranda. Before initiating the so-called “Saranda Development Plan” (SDP) in 2011, the Jharkhand and central governments had jointly initiated what was called “Operation Anakonda” to “cleanse” Saranda of Naxalites. Below is an excerpt from a newspaper report on the operation, SDP and intentions of the state and industrialist’s agents behind these operations and plans and their consequences for the Adivasi villagers in there.

Deep inside the Saranda *Sal* forest, Thalkobad lies at the core of what was a CPI (Maoist) “liberated zone” in Jharkhand’s West Singhbhum district along the Odisha border. Thalkobad, along with 24 other villages, was reclaimed by the Indian state after a massive military operation — Operation Anaconda-I in August 2011 to destroy the CPI (Maoist) Eastern Regional Bureau and several training camps inside Saranda. The village bears scars of conflict — a high *machaan* used by the then rebel government of the village is intact but the secondary school building the Maoists took cover in to return fire at the CRPF is gone. The rebels blew up the school before escaping.

Saranda is a “laboratory for how to consolidate on security successes,” Jairam Ramesh, Minister for Rural Development, in a recent interview. Mr. Ramesh launched the Rs. 250-crore Saranda Development Plan (SDP) in 56 villages here in 2011 and has since announced similar plans for rebel-controlled zones in Latehar and Bokaro districts recovered through recent paramilitary operations. Two years on, Saranda villagers are still awaiting schools and health centres, even as mining companies have lined up to invest in the newly secured forests.

In Thalkobad, the adivasi villagers recall the pitched battle that August: most families fled to Karampada 13 km away for a month, 18-year-old Munna Soya and his father were taken by the Central Reserve Police Force in a helicopter to Ranchi on suspicion, detained and beaten in several police camps and later released, 50-year-old Jarda Honhaga was beaten so severely that he died in the hospital. From the 25 villages, 37 persons were arrested, more than 100 were detained.

The CRPF returned six months later bearing sarees, blankets, and farm implements. In the last few months, the villagers have watched the construction of a security camp next to their village, and then a road connecting Karampada to Jaraikela. Some have found temporary work with the road contractor and in MGNREGA [Mahatma Gandhi National Rural Employment Guarantee Act]. Others fear new mines will be opened in the forest. “If mines open our land will be ruined. The river will have only red water. We are not literate. How many of us will find jobs?” said Binodini Purti who cooked meals at the secondary school that was blown up.⁸¹

Biren was one in a group of 12 “hard-core Naxalites,” from his and his neighbouring villages, whom the CRPF men air-lifted by a helicopter to be taken to Chaibasa, the district headquarters (about a 110 KMs away by road). He was arrested on June 27, 2011 and imprisoned on July 1, 2011. His wife had to run from pillar to post to find an advocate to get him out on a bail which she eventually got on January 30, 2012. She spent more than 20,000 rupees for the purpose. She collected the amount from neighbours in her village later returned the money by selling a few goats and cattle.

⁸¹ Yadav, A. (2013) ‘More mines, fewer schools in former Maoist stronghold,’ *The Hindu*, June 17.

Biren's case is not yet disposed of; he continues to attend the court at Chaibasa, initially twice every month, and later once a month. One such trip to Chaibasa court takes three days and a minimum of 700 rupees. Biren is accused of providing rice, dal and other food materials to Naxalites. His neighbours and friends say that there is no truth in this accusation.

According to Biren, "I was ploughing the field. The CRPF men arrived at our village and asked all the villagers to gather near the school building. Among the villagers, I was the only one who could speak Hindi, since others speak only the Ho language. They mistook me for a Naxali and took me to Chaibasa by a helicopter. Actually, I was working as a security guard at company in Joda (Odisha). I had come home for holidays. I also was an agent of a welfare group. I had collected a sum of Rs. 25,000 from the consumers of this welfare group. This sum was kept at home. The CRPF men took away this money as well."

Case – 2 – Samu Horo – *The police seldom do proper investigation of criminal incidents.*

Samu (31) is a Munda Adivasi from Ranchi district. He is the eldest son of his family. He stays with his mother and three of his younger brothers. Since his father's death in 2008, he has been looking after his family. In 2010, he was elected a member of the *panchayat samiti* at the block-level. Just before his arrest, he was looking after the construction of a school building at a village called Gopalpur. Samu was accused of being involved in a murder of a certain Mahendar Sahoo who was a para-teacher in a nearby middle school and worked as a contractor in his village. Although the murder of M. Sahoo was committed by a few members of Peoples Liberation Front of India (PLFI), the police could not trace them to bring them to justice. As the police asked Mahendar Sahoo's family for more details about the murder, his wife said that her husband had gone to Samu's house on the day he was murdered.

According to Samu, on the day M. Sahoo was murdered, he along with one of his friends, had come to Samu's house on a motorcycle to discuss about a constructions work Samu was supervising. When M. Sahoo and his friend arrived at Samu's house, someone from the village informed the PLFI activists who were looking for a chance to get M. Sahoo into their "territory."

While M. Sahoo, his friend and Samu were sitting and discussing matters about the construction work, five armed PLFI men arrived there on three motorcycles. These men were drunk. They began to fire at random in the open to frighten everyone. They caught hold of M. Sahoo and hit him with rifles, tied him up with a piece of plastic rope which they found at Samu's house and put him on a motorcycle. Then, they took him to Karo River which is about a kilometre away from the village. They also took along a sharpened axe that they found lying at Samu's courtyard.

While these men were attacking M. Sahoo at Samu's house, Samu and his friend tried to stop the PLFI men. However, they threatened them and warned them not to move; then, Samu and his friend ran for their lives. The PLFI men killed M. Sahoo with the axe and threw his body on the bridge of Karo River. Later in the evening, M. Sahoo's family and neighbours were anxiously

trying to contact him for several hours since they found his mobile phone switched off. Late in the evening at about 7.00 o'clock, there was news that a dead body was lying on the bridge.

M. Sahoo's family and neighbours went to the place and identified the body. At about 8.00 o'clock in the evening, the police came and took possession of M. Sahoo's body. On the following day the police sent the body for post-mortem. On this day, Samu found the headline in a local newspaper which said, "M. Sahoo is murdered; Samu had called M. Sahoo to his house; Samu has linkages with the PLFI terrorists; and thus, he is behind M. Sahoo's murder."

On seeing the news, Samu phoned to the OC of the nearby police station to see if the OC was there. He, then, went to the OC and narrated the entire incident as it had taken place. However, the OC began to question Samu further and locked him up at the police station. Later, Samu was taken to the DSP who too listened to Samu's narration the incident. Samu was locked up at the police station for three days. On the fourth day, the OC called a member of the *Jila Parishad* (district level *panchayat*) and made a bond and released Samu.

Samu remained and moved about freely in his village for about 10 months. However, in 2014, just before the OC was transferred, he seemed to have sent Samu's file with the report of this case to the court. When the new OC came he called Samu and asked him to surrender himself at the court and get out on a bail. Samu consulted an advocate at Ranchi district court regarding the issue. The advocate checked Samu's case record and told him that his name was not in the F.I.R and hence there should not be any warrant to arrest. The advocate had assured Samu that if there was any problem, he would inform him if he needed to surrender at the court or not.

On December 5, 2014, however, Samu had come to the nearby town to do some banking-work, the constable from the *thana* (police station) came and arrested him and kept him locked up. There they also made him to sign on a few documents and sent him to Ranchi central jail. Only after Samu has spent about five months inside the jail, his mother and a younger brother could find an advocate for him since they did not know what to do and did not have any money with them.

Samu's mother got so worried about him being arrested and imprisoned, for she had placed all her hopes in him as he managed everything as a householder. She now collects vegetables from nearby forests to be sold at a nearby market to earn some money. She collected about Rs. 5000 in four months' time to pay the advocate who is an Adivasi himself from a neighbouring village and practices at Ranchi district court. After a few weeks the advocate demanded another eight thousand rupees to bail Samu out. This sum was contributed by a few of Samu's sympathisers. The advocate now has a total of Rs. 14,000 and assures that Samu should be out on bail in another 15 days. However, it was only after another six months Samu's advocate was able to get him out on bail. On our requesting the advocate for copies of the FIR and charge sheet for the purpose of this study, he has promised us several times to provide us with the documents, but has not yet delivered them.

According to Samu's advocate, the police investigation report said that the police have found some "bloody-soil from Samu's courtyard" as evidence to implicate Samu in this incident of murder committed by PLFI activists whom the police had failed to trace.

Case – 3 – Bhuneswar Singh – *The police mostly remain satisfied with the often incorrect statements of victim's family.*

Bhuneswar (75) is from Bokaro district. He was arrested and sent to jail in connection with a murder of certain Narayan Singh who was murdered by the so-called "Naxalites." Narayan Singh was the president of village school education committee and was accused of swindling government grants for education purposes.

After Narayan Singh's murder, his family accused four persons including Bhuneswar Singh. These four surrendered in the court, were bailed out and fighting their cases. Later on, the diseased Narayan Singh's family gave a written statement to the police saying that these arrested four persons were innocent. Thus, all four of them, including Bhuneswar were freed of all accusations. Similar to Samu's case, this too is a clear case which shows that the police are ill-equipped to bring the real culprits, who actually commit heinous crimes, on record. However, the police remain complacent with the statement of victims' families who need not be correct most of the time. Consequently, the criminals get away freely while innocent persons are put behind the bars.

Case – 4 – Mangru Kisku – *Jealous villagers often conspire and report falsely to police.*

Mangru is a 51 year old Santal from Giridih district. He has been to the district jail three times. Once he surrendered himself to the police. At other two times, he was picked up by the police. His last arrest was on October 29, 2007, which happened under a conspiracy. On October 26, 2007 the so-called Naxalites killed 19 persons, including Babulal Marandi's son in Chilkhari village under Devri block of Giridih district. However, the court acquitted him on June 22, 2011.

Mangru says, *"Everyone in my village knows that I have nothing to do with this incident. However, on October 29 2007, as I was at Chirdi, the block-headquarters for some work, the police came and caught me without giving me a reason. They took me to the SP of Giridih district. From there they took me to Devri police station where they told me that my name had come up in connection with the Chilkhari incident. They sent me to Giridih jail and I have spent my life in jail from October 29, 2007 to June 22, 2011 for no fault of mine, but due to the inability of the police to get the criminals who committed the genocide and got away."*

While he was in jail, his advocate applied for a bail twice to the High Court but was rejected both the times. Finally, on June 22, 2011, on the day of judgement six out of ten who had also been arrested from the same village were acquitted.

"The police had arrested us on the basis of some accusations made on us by others who had something against us. This is because I have been trying to do some good for the village. Moreover, my family has been able to make some progress in the village. People who were

jealous about me and my family must have played a role to include my name in the list of accused in relation to the above mentioned Chilkari genocide. The police need to do proper investigation before they make their final statement on those being falsely accused. If the police continue to be inefficient and careless like this, innocent people need to suffer torture (both mental and physical) and punishment for crimes they have not committed. This also happens due to conspiracies by those who are jealous in the village. Moreover, I had already been falsely accused of being a Naxalite once,” Said Mangru.

Case – 5 – Lalit Majhi – *Once arrested, the police subsequently foist several false cases on a person.*

Lalit (40) is a Santhal from Bokaro district. He was arrested in 2001 and imprisoned. The police made him responsible for a murder committed by Naxalites. He spent about 10 months in Tenughat jail before he was granted a bail. A second time he was called to the nearby police station by the OC ostensibly to help carrying some housing materials. However, as he arrived at the police station, he was arrested. Similarly, he has been made a party in two other cases as well. Presently, he is acquitted in a murder case. This acquittal happened since the family of the murdered person gave a written statement to the court stating that Lalit was innocent. It looks that the family of the deceased did the investigation instead of the police!

Other three cases are yet to be disposed of and he attends the court on dates of their hearing. He contributes greatly to the common good of villagers. According to his friends, relatives and co-villagers, he is a person who takes initiatives in social and welfare activities in their village; he is certainly not a supporter of Naxalites. One of his friends say, “The police has made him a ‘Naxalite’ at the time of his first arrest; since then, they are after him whenever there is a criminal incident around the place.”

Case – 6 – A Group-Case – *Competition for control over resources and class/caste conflict, however, the powerful get the support of the state’s repressive apparatus.*

Eight young Adivasi-Moolvasi men were arrested in connection with an incident that destroyed a JCB (earth mover), two trucks and a car in Kunti during the beginning of 2015. According to the narration of family members and co-villagers of those arrested, seven out of these eight men arrested have nothing to do with the destruction of the said machines.

These machines belonged to a certain Sahoo-group who was initially accommodated by certain ‘Mundari-speaking’ villagers long ago at a corner of their village as service-groups.⁸² In the course of time the Sahoo-group became wealthier with their involvement in contractor-ship, politician-bureaucrat nexus and they formed a big construction enterprise of bridges and roads.

⁸² Historically, Adivasi villages establish themselves by the original settlers; called Mundari *Khuntkattidars*, later their relatives and certain others, as service groups, are allowed to settle in these villages by the founders or *Khuntkattidars*, often without access to cultivable land since they lived on their service trades [Roy, S.C. (1970) *Mundas and their Country*, op. cited].

As they accumulated material wealth and power, they also began to acquire more village-land under their control and differentiated themselves socioeconomically.

According to the Sahoo-group's testimony in the FIR filed initially by the police personnel, it is stated that "unknown antisocial elements" destroyed costly machineries kept at the premises of their construction company by setting them on fire.

A week later, however, a few members of the Sahoo-group along with several police personnel came to the accused young men's villages that are nearby and started picking them up one by one. They beat them up so thoroughly that the young men had to accept the accusation of setting the said machines on fire.

These young men have been in jail for more than four months; while we come in contact with their family members, their advocates were trying to get them out on bails. According to family members and co-villagers of these young men, "While the Sahoo-group was torturing these young Adivasi-Moolvasi men to make them accept the responsibility of the said crime, the police personnel were present with the group and were watching the atrocities silently. While we requested the police to take action against them, they refused to interfere."

As a follow up of the fieldwork, we met four of these young men who were released on bail after about six months. They said, "The Sahoos grab our land and we have confronted them asserting our Constitutional rights enshrined in the 5th Schedule of the Constitution and the Chotanagpur Tenancy Act 1908. Hence, when their machines were destroyed by someone else, they used this occasion to harass us. They are taking their grudge against us to repress and silence us. We will surely strike back since we too have the right to live decently and protect our resources."

The FIR and police diary show the names of about "16 Mundari speaking drunken men setting fire to machineries costing so many millions of rupees." Among the 16 names mentioned, eight of them were arrested and imprisoned. According to these young men (who are presently out on bail), one among the arrested eight men was involved in criminal activities whom the rest of the group members did not know before. Except him, all others are clearly ordinary, hardworking young Adivasi-Moolvasi men who have no past records of committing any crime. They have been trying to come up in life asserting their constitutional rights in their respective villages.

Case – 7 – Tahir – Many police personnel benefit from criminal mafias.

Tahir is a Muslim youth from Ranchi district. After completing his pus-two studies, he registered for his bachelors programme, but was forced to discontinue it due to financial difficulties at home. His father earned Rs. 2000 only per month from the Chotanagpur *khadi* industry. Hence, Tahir was forced to work as a farmer in his village. During this time, he also attended several recruitment camps of the combined Bihar-Jharkhand CRPF Cobra battalion. According to him, "Although I had successfully cleared the physical and medical tests to be recruited to the CRPF, the recruitment programme was cancelled due to some malpractices done by some officials in Patna."

Agriculture did not bring him sufficient income due to irregular rains and low prices for agricultural produce. Hence, Tahir began to work as a petty contractor to install electricity transmission lines. He had to stay out of his village for this purpose and earned some savings by the completion of this work. However, as he came back and continued at his village, he became increasingly aware of several malpractices with the works at the *panchayat* and block levels. He began to use the RTI Act 2005 to unearth the details of such malpractices. Along with these, he also began to take up the work of a petty contractor to constructs buildings, roads, etc.

One day, while he was talking to one of his colleagues who supplies mud and stones for construction works at a suburb area close to his hometown, a few police personnel approached him; they took him to the police station. They accused him of being involved in several crimes of which he did not know anything about. The police scolded him and gave him a lot of troubles. As he arrived at the police station, he found a few other “criminals” whom he did not know or have not seen before. “I cried a lot and begged the police to convince them of my innocence. However, the police did not care. They did not even allow me to talk to my family members,” he said.

Meanwhile the police arranged a press conference at the SP’s office; many press reporters were already informed about it. All the “criminals” were taken to the SP’s office. The SP announced to the press that they came to know about some conspiracy to commit ‘organized crime’ within the police station’s jurisdiction. Based on such information the police have arrested these four “criminals”. It was also announced that the police had recovered two nine mm pistols, six other weapons and 20 bullets.

गडम

13-11-2014

सफलता. पुलिस की संयुक्त कार्रवाई में हुई गिरफ्तारी

अंतरराज्यीय गिराह के पांच अपराधी गिरफ्तार

दो नाइन एमएम के पिस्टल, दो देसी कट्टा सहित चार हथियार और 20 गोली बरामद सभी पहले भी कई बार जा चुके हैं जेल

कई राज्यों में घटनाओं को दे चुके हैं अंजाम

संवाददाता, रांची

नामकूम व लोअर बाजार पुलिस ने संयुक्त कार्रवाई में अंतरराज्यीय गिराह के पांच अपराधियों को गिरफ्तार किया है. इनके पास से हथियार भी जब्त किये गये हैं. सूचना मिलने के बाद पुलिस कार्रवाई में सरवर कुंशी, मो मोहन अंसारी, हसन अंसारी, नन्दवीर ओहदार व कुन्दुर अंसारी को दो अलग-अलग स्थानों से गिरफ्तार किया गया. इस बात को जानकारी एएसपी प्रभात कुमार ने संवाददाता सम्मेलन में दी. इस दौरान सिटी एसपी अनूप विस्मय व ग्रामीण एसपी अनोश गुप्ता भी उपस्थित थे. उन्होंने बताया कि सरवर कुंशी इस अपराधियों के पास के कई हथियार बरामद किये गये.

अंतरराज्यीय के पास से पुलिस ने दो नाइन एमएम के पिस्टल व दो देसी कट्टा सहित चार हथियार, 20 गोली बरामद की है. पुलिस ने बताया कि पांच अपराधियों दोहरी हत्या, लूट, डकैती व दुकानें मारने के आरोपी हैं. सभी पहले भी कई बार जेल जा चुके हैं. गिराह के सरगना सरवर कुंशी हत्या के मामले का अभिगृह्य है. 29 अक्टूबर को वान्ही में 2.80 लाख रुपये के लूट हुई थी, उस लूट में भी इस गिराह का हाथ था. पुलिस के मुताबिक गिराह ने रांची, कोदरगढ़, हजारीबाग व मुक्तगढ़ जिलों में हत्या, लूट, डकैती व दुकानें को घटना को अंजाम दिया है.

गिराह का मास्टर माहंड ख सरगना है. ये लोग पहले भी बिहार, ओडिशा स्थित अन्य राज्यों में घटना को अंजाम दे चुके हैं. एसएसपी ने बताया कि राजधानी में घटना को अंजाम देने के बाद ये लोग ओडिशा में घटना को अंजाम देनेवाले थे.

श्री कुमार ने बताया कि रांची पुलिस को सूचना मिली थी कि सरवर कुंशी (चाको), मो मोहन अंसारी (नरकोपी), हसन अंसारी, नन्दवीर ओहदार व कुन्दुर अंसारी (चाको) नामकूम थाना क्षेत्र के मौलाना आजाद कॉलेजों व लोअर बाजार थाना क्षेत्र के कॉलेजों के पास अस्त्रधारी भी गैरनामा करने के लिए जमा हुए हैं. उन्हीं पराना पर पुलिस ने छापामारी की और उन्हें गिरफ्तार किया.

जसा किये गये हथियार और गोलीबा.

तया-तया बरामद हुआ

More interestingly, “Among the four of us arrested, the police filed FIR and charge sheet under the arms and unlawful activities (prevention) Acts, only on three of them. As I came to know later, one of them, who has been involved in several criminal activities like trafficking of animals, drugs, wood, and other common property resources, was not charge sheeted. Based on this I conclude that the police are hand-in-gloves with criminals and underworld mafias. The police need them and they are not sent to jail and tried nor are they punished for their crimes,” said Tahir.

The FIR registered against Tahir by the police interestingly said that he had carried several weapons including a pistol and several bullets. Moreover, the press report says that the arrest of all four “criminals” took place while they were conspiring to commit a crime under the leadership (master-mind) of Mr. Sargana Sarvar Kurishi; however, no case was filed against him by the police. Tahir said, “I have come to know several other criminal mafias whose names often appear in news reports as being caught by the police, however, they are not sent to jail. Several top police officials, their body-guards, and others who collaborate with them in the department have been given a share of the mafia’s income. It looks that the legal system in Jharkhand is not only to support those who are powerful criminals, but also to harass, oppress and further impoverish the economically marginalized, unemployed youth like me.”

Case – 8 – Grassroots Adivasi leaders’ harassed – Politically motivated harassment and oppression of Adivasi leaders at grassroots.

Munda Adivasis in Thapkara have been alert and politically conscious about their land-rights under the banner of Koel-Karo social movement against the construction of a dam to produce hydroelectric power. As the local BJP leaders were sure of their inability to make inroads into these Mundari-Khuntkatti villagers, just before the Parliamentary and Assembly elections in 2013 and 2014 respectively, they have reportedly, conspired to arrest a few Munda leaders at the grassroots who mobilize voters for non-BJP (regional) parties.

According to villagers’ narration of the arrest and imprisonment of several Adivasi men, they were arrested a few weeks before the Parliamentary election in 2013 at the behest of a few local BJP workers/ leaders who wanted these Munda leaders who kept their villagers alert against the BJP’s insidious and propagandist ‘development’ agenda which would accelerate Adivasis’ dispossession of land and related resources by displacing them forcefully. These BJP men have prompted the local police to arrest the grassroots Adivasi leaders, who appeal the villagers to vote for non-BJP parties, labelling them as “extremists.”

Similar incidents occurred a few weeks before the Assembly elections towards the end of 2014 as well. A few other Munda leaders, at the grassroots, were arrested and sent to jail falsely accusing them of having linkages with Maoists or involving in various antisocial activities such as forcefully closing down a government school. The OC of the local CRPF outpost says, “These arrested are people who associate themselves with Maoists.” On asking him how he knew such connections, he says, “There are very few people who really help the police to fight extremism.”

Many of those arrested are out on bail but attending the court on the dates of hearing. One was accused earlier but caught recently. During our visit to his village, his family was busy trying to get him out on bail. Those who are already out on bail are under trial and keep attending the court twice a month. Each trip to the court costs about 500 rupees.

Clearly, these cases are a part of class conflict or systemic oppression where by historically oppressed and exploited Adivasis are forced to be in their 'traditionally' assigned status – to be subservient to the dominant powers that encapsulate them. When Adivasis become more conscious about their constitutional rights, try to be unite themselves, and begin to assert their Constitutional and fundamental rights, which goes against the interests of traditional power-holders, they are forcefully kept under control with the help of the state's repressive apparatus – the police and para-military forces.⁸³

Case – 9 – Jitan Marandi – *A social and cultural activist harassed by the police to turn him into a “hard-core Naxalite”*

Jitan (34) is a Santal social and cultural activist from Giridih district. Jitan's story of being misrecognized, falsely accused, arrested, tortured and being imprisoned is known to many people at the regional and national levels. A very short version of this story has been published in Hindi by *Dainik Jagaran*, a vernacular (Hindi) daily in 2011.

Jitan was arrested and imprisoned four times. His first arrest was in 1999 in Hazaribagh; this time the police tortured him, kept him under custody for two days and charge sheeted him under section 144 for “levy collection.” He spent about seven and a half months in jail. His second arrest was in 2003 in Patna, at Women's college where he had gone to perform a cultural programme. This time the police mistook him for a so-called 'Naxalite' named also as Jitan. Mr. Suman Anand, the then SP Patna, arranged a press conference to announce the police's “success” in arresting a “hard-core Naxali.” His third arrest took place in 2005 in Dhanbad; this time he spent about five months in jail.

Jitan's last arrest happened on April 8, 2008 in connection with the notorious Chilkhari killings by the so-called Naxalites at a “Santal Orchestra at Chilkhari village in Devri police station area in Giridih district on October 26, 2007. The police got a list of persons who, according to them, were involved in the crime. Among these was a person with the same name as Jitan Marandi. The police, after about five months of 'investigation,' came to 'confirm' thus, “The accused criminal Naxali Jitan Marandi has been identified.”

After arresting Jitan Marandi, the sociocultural activist, the police, as usual, imposed six more cases on him and sent him to Ranchi central jail on April 6, 2008. He was convicted with death sentence. He spent almost five years in jail. However, this time, Jitan's arrest was condemned

⁸³ Mitrani, S. (2014) 'The Police Were Created to Control Poor and Working Class People,' *Counter Punch*, December 31, 2014: <http://www.counterpunch.org/2014/12/31/thepolicewerecreatedtocontrolpoorandworking-classpeople/print> (retrieved on June 26, 2015).

and rejected by several social activists, and colleagues. They demanded his immediate release through several campaigns, public meetings and demonstrations. Consequently, the police had to release him this time due to public pressure. It is interesting to note how the police tried to make Jitan Marandi, a social and cultural activist into a “hard core Naxali.” More interestingly, Jitan’s wife Aparna Marandi, who while attending to Jitan in jail and trying to get him out on bail with the help of Jitan’s friends and colleagues, too was arrested and imprisoned.

Aparna Marandi

Aparna (32) is Jitan Marandi’s wife too was arrested while she was at Hatia railway station, near Ranchi to board a train to Hyderabad to attend a programme on human rights violations. The police arrested her and charge sheeted her under section 17 CL and sent her to jail. The reason for her arrest was that the police could not tolerate her efforts to create public opinion, mobilize supporters and friends to release Jitan. This was the main reason for her arrest and imprisonment.

Case – 10 – Lakhan and Madhav – *A familiar case of being caught between Criminal gangs and the Police/ CRPF*

Lakhan and Madhav from two neighbouring villages, quite interior – inside forests, in W. Singhbhum district. They were accused and arrested on the same day in 2014. Lakhan’s arrest took place at home. He and his family were at home sleeping. The police arrived at night about 12 o’clock and picked him up from his house. They termed him an “extremist.” He was alleged to be involved in the abduction of a central committee of experts that had arrived at Roro, a village in the same district, to inspect an abandoned asbestos-mine in that village.

According to their family, friends and neighbours, these two young men – Lakhan and Madhav were not involved in any extremist activities. However, a group of youth who carry weapons used to visit their village. These young men demanded food and shelter forcefully from villagers. Once, the group had left a few weapons near Lakhan’s home. These were discovered by the police when they raid the house and its surroundings.

Both Lakhan and Madhav have similar stories to say about their accusations and arrests. The police caught them and tortured them severely forcing them to accept that they were “extremists,” a title the police personnel had assigned to them in the FIR.

Lakhan has his wife and three young children. He and his wife both engage in seasonal self-employed agriculture with less than two acres of cultivable land and work as casual labourers during lean seasons. Madhav also has three children and his wife. Children depend on their parents for livelihood. The couple depends entirely on casual labour for livelihood. At the time of our fieldwork, both Lakhan and Madhav were still in prison. The information provided here was gathered from their family members and co-villagers.

Case – 11 – Shobhani Marandi– *Arrest based on misinformation and doubt*

Shobhani is a 43 year old Santal woman from Giridhi district. She is illiterate, married but due to her husband’s misbehaviour she has decided to stay back at her mother’s house. On April 18,

2010 while she was travelling along with a young girl to her relative's house, the police arrested her accusing her of being a supporter of Naxalites. The police also kept her under custody over three days. The police tortured her at Bishnupur police station. There was no lady police personnel to arrest her.

The police have assigned her the role of being a member of a Naxalite organization's women's wing who illegally possessed arms. She does not have a copy of the FIR or Charge Sheet with her. Presently she is out of jail on bail with the help of her brothers. She has no source of income. She depends on her brothers back home. She has little knowledge of legal procedure to fight her case besides financial difficulties. Her relatives, friends and co-villagers testify that she is innocent and her arrest was accidental, under taken on basis of misinformation and doubt.

Case – 12 – Malti Kisku – *People who raise their voices against injustice are being falsely implicated.*

Malti (45) is a Santal widow from Pakur district. She was arrested on September 4, 2009 and was sent to jail. Now she is out on bail. The reason for her arrest was that she, along with her six colleagues, had challenged the ration dealer who did not provide them food materials on time as they were entitled to. The village Pradhan, along with the ration dealer, falsely accused them as having linkages with "extremists." This case has added to Malti's troubles increasing her expenses due to the burden of attending the court twice a month. She is already a "below poverty line" householder. Now she is denied of her ration by the dealer and the Pradhan. Even after complaining several times to concerned officials and Member of Legislative Assembly (MLA), she has not been given her ration.

She says, "*People who raise their voice against injustice in society are being implicated in false cases. I will fight the case and prove my innocence. Police administration works in collaboration with the exploitative middlemen, who trap innocent villagers. Thus, the police are for those who have money and power not for the economically weak.*"

Case – 13 – Ravi Ram – *The police are ill-equipped to make out who is actually guilty of committing crimes.*

Ravi (49) is a Dalit from Garwa district. He was arrested three – twice from his home and once the police called him to the station and arrested him. He spent 45 days in jail due to the first arrest; with his second arrest, he spent four months in jail and the third time he was acquitted. He was falsely accused of involving in unlawful activities including the possession of illegal arms.

During his arrest the police raided his house and took away several of his belongings. However, he is now acquitted of all cases. He says, "Since I was financially not so weak, I could get a good advocate who could understand the falsity of the cases and prove my innocence in the court.

I had to face several problems inside the jail. There was no sufficient space to sleep; food provided inside the jail was not tasty and sufficient. While I fell sick, I never got any treatment. The conditions of economically poorer prisoners are much worse. For every basic service in jail,

one needs to pay a bribe. I have seen that the majority of people in jails are economically impoverished. While listening to their stories, I learnt that they are made “criminals” by the police; however, the majority of them are actually innocent. The administration in Jharkhand is so very disappointing. The police invariably harass the marginalized people; as they search for “extremists.” Police depend on exploitative middlemen to do their job which puts the deprived and innocent villagers in trouble.

Case – 14 – Rupa Hembrom– *There are oppressive dalals (middlemen/ women) inside and outside the jail.*

Rupa (40) is a Santal woman from Pakur district. She and her husband have been harassed by the village Pradhan who intends “to grab their land.” Since Rupa and her husband asserted their rights and fought back in whatever way possible, the village Pradhan managed to get Rupa’s husband arrested accusing him to be a Naxalite. Later, Rupa too was arrested while she was travelling with her seven months’ old child to Pakur for some work. “The police surrounded her as they do with criminals. While this happened, her husband was already in jail,” she said.

She spent about one and a half years in jail. Financially they were already weak with only a landholding of 43 *bhiga*.⁸⁴ Both of them earned their daily bread by doing casual labour. This arrest has made them financially weaker and more vulnerable. Their release from jail on bail was delayed since they were unable to furnish the required bail-security amount.

She describes her experience of life inside the jail, “*I did not keep well most of the time inside the jail. I had terrible tooth ache. There was no treatment available; I never felt like having food from the jail for the quality of food was so poor. However, for the sake of my child, I ate what was provided. If any poor prisoner tries to assert his/ her basic rights to proper food and other basic minimum necessities, they get often beaten up by jail-guards. There are agents or dalals [middlemen] inside the jail as well. They, in collaboration with the jail administration, would collect Rs. 20-50 from every visitor who comes to visit his/ her relative in prison. Bedding and other such basic facilities are provided to prisoners only on paying a bribe although all prisoners are entitled to get them free of cost.*

At the court, the judge and advocates have forced me to put my signature on blank papers. However, I have refused to do so. I told them that I will never sign on any blank paper. They said, if I sign on the blank sheet, my release would be sooner. I refused to sign for I have not done any crime. The police have falsely accused my husband and me as being Naxalites prompted by the one who has been trying to grab our land.

My experience of the police is that they have falsely accused and arrested both of us – husband and wife. I challenge the police on this issue that they have trapped us in false cases. They do it deliberately to oppress the poor like us since they know that there is no one on our side. However, I believe that the legal system must be able to provide justice to the poor. I will fight

⁸⁴ A *bhiga* is less than one-third of an acre.

my case to prove my innocence with the help of my neighbours and friends. Moreover, the police have no proof of my husband and I being a Naxalite.”

Case – 15 – Mufti Ansari – *The court pauperizes, the jail administration ill-treats and dehumanises economically poor people.*

Mufti (48) is a Muslim from an economically poor family in Gharwa district of Jharkhand. He has been harassed four times by false arrests. His first arrest took place on April 14, 1998. This time he spent eleven days in prison. The second case kept him in jail for three months, the third one six months and the last one two and a half months.

Presently, he has been cleared of all cases but his family has become economically impoverished. Due to his continuous arrests and the disturbed situation at home, his wife’s health has deteriorated progressively. She has been severely ill and needs treatment which he cannot afford.

According to the FIRs and charge sheet, Mufti’s arrests are from forests, although all his arrests were done at his house. According to Mufti, when the police had arrived at the village, people were shouting “run, run, the police have come...” However, Mufti did not run; he remained there and the police arrested him saying, “He is a hard-core criminal; he will confess everything clearly if he is given 500-600 lashes.” Accordingly, they took Mufti to the police station to torture him “to get the truth out.” While enduring the torture, he thought that the police had broken all his bones and he would not be able to walk anymore.

While he was inside jail, he could not get even the basic facilities without paying the guards there. However, his family and villagers helped him to get out on bail each time he was arrested. According to Mufti, “*The police, legal and jail administration are too rotten that they cannot be reformed. The police harass economically poor people and make them Naxalites, the court pauperizes and the jail administration ill-treats and dehumanises powerless people.*”

Case – 16 – Damodar Turi – *Those organise to protect their land and livelihood resources are targeted as Naxalites.*

Damodar is from Nawada village of Tundi block in Dhanbad district. He was a member of the steering committee of *Visthapan Virodhi Jan Vikas Andolan* (people’s movement for development by opposing displacement). He was arrested from the office of the movement at Doranda in Ranchi on June 24, 2008 and was imprisoned on June 26, 2008. He was subjected to severe mental and physical tortures in Ranchi and Hazaribagh followed by his arrest and prior to imprisonment. His case was registered under sections 17 and 18 of the Criminal Law and 10/13 of UAPA Acts. His bail was delayed due to: (1) the delay in procedures at the Ranchi High Court; and (2) lack of financial resources with Damodar’s family to furnish the required (bail) security. Hence, he spent nine months and fifteen days in prison. Presently he is under trial and hope to establish his innocence via the criminal justice system.

He tells about his experiences in jail, *“When I was in jail, not all who came to see me were allowed to do so. Many of my visitors were often told to come after eight days. Ordinary prisoners, in general, are often denied of basic facilities like food and even a place to sleep. The food was not cooked properly; cleanliness inside the jail was next to nothing. No service was provided according to the jail-manual. On requesting to have a look at the jail-manual, the guards threaten inmates with severe beating or of being sent to a special cell to be tortured. Finally, we did a hunger strike after which some basic facilities were given to us. Yet, there was no medical treatment available for prisoners who suffered from physical ailments.”*

His experiences of the police and legal system go like this, *“Innocent people are made to suffer unnecessarily under the lower level police personnel. The police cook up false stories, about the persons in charge sheets filed by them. This is a crime against the law. Moreover, they are not punished for this crime...”*

We, the members of our movement, would like to affirm our rights to water, jungle, land and other related natural resources. However, it appears that the police and the administration are against our struggle for our Constitutional rights...

Money is required to get justice from India’s legal system. Justice is sold here for money. Those who have plenty of money can buy a ‘good’ advocate, then, you might get ‘justice.’ Most often, innocent people in India have no money to be spent as they like to, and hence, they continue to remain condemned.”

Case – 17 - Sylvanus – *An Adivasi youth spending his life in prison for more than a decade for no fault of his.*

Sylvanus (40) is a Kharia (Adivasi) from Gumla. He completed his graduation from St. Xavier’s college Ranchi in 2003 and was staying at his uncle’s house in Ranchi with two of his nieces. There he was preparing for competitive exams. On August 22, 2003, he had come home just before going to Allahabad, to appear for an exam conducted by the Allahabad Railways, next day morning. However, on night about 12 o’clock, his brother heard the sound of firing and he told the family about it. They all got up and stayed awake the whole night. In the morning they came to know that two persons from a Sahu family in their village were shot dead by Maoist extremists. Sylvanus too was arrested and imprisoned in connection with this incident although he was not involved in the incident. The Gumla sessions court convicted him in this case and he has been in jail since then (in prison from October 2003 – to date).

The following is the narration, by Sylvanus himself, of a series of incidents that brings out the complex and frightening aspects of life in Jharkhand’s villages, *“Since this incident happened, my family disallowed me to go to Allahabad. Hence, I returned to Gumla. When the police arrived at the village to inquire about the incident, my brother helped them to carry the dead bodies to the police station. Hence, he was also made a witness to the incident. When the police took down some names of persons as part of their investigation, villagers had not taken any co-villagers name. That is, none of the villagers knew whose names were written in the charge sheet filed by the police.*

While all these were going on, there was a recruitment drive to the police department. Hence, my younger brother, a few co-villagers and two of my nieces too filled in the application form for the same. Meanwhile, due to economic constraints in my family, I requested my sisters in Ranchi to find some job for me there so that I can earn at least the expenses for my education and travel by myself. Thus, my sister had spoken to a shopkeeper at Upper-bazar Ranchi for a job for me. I came off to Ranchi and began to stay with one of my sisters who stayed near Bahu-bazar in Ranchi. I had planned to work at the shop for a month and then move to Ramakrishna mission at Morahabadi for a short training programme. Meanwhile the date for police recruitment tests was announced and I too got an admit card for the same. Hence, I took a leave from the shop and attended the selection parade at police-line ground Ranchi on October 22, 2003. That day, my younger brother and one of my cousins have also come to Ranchi for recruitment tests. All three of us had cleared the physical requirement tests successfully.

At this time, while we were standing there, Rajiv Ranjan Singh, the DSP of Gumla, took me off from there saying that he need my help to fetch answer-sheets for the written exam. He put me in the police vehicle and made me sit inside for a long time. After some time, I asked a police man who was guarding me, "Why have you kept me here without allowing me to write the test?" Then, the police man told me that he was asked by the DSP to keep me in the vehicle. When I said that I was called off from the place written test, the City SP Mr. M.B. Rao asked me, "Son, have you written the test?" When I said that I was brought here by the place from where I was about to appear for the test, the SP scolded the policemen. The police men, then, told him that they were asked to do this by the DSP of Gumla. Then, the SP asked me to write the exam sitting inside the jeep while he dictated to me a narration from a piece of an old newspaper about the murder of a bus owner by Maoists!

On realizing that the police have taken me into their custody, I called my cousin (sister) who had also come to write the test and narrated the incident to her. Hearing the news, she came and remained with me. The police first took us to Gonda police station; it was raining so heavily that there was water everywhere. Since there was no place to keep us, the police took us to Upper bazar police station Ranchi. There they locked me inside a room and my sister was taken off by a lady police. The next day a lady police officer and my sister visited and asked me if I had been given anything to eat. When I said that I had not gotten anything to eat, they brought me some breakfast. Then, I requested the police officer to take my sister to one of my aunts and I gave her my aunt's address and officer did so.

My sister narrated the entire incident to my aunt. She, along with her friend and friend's husband, who works at Ranchi University, inquired about my case at the police station. However, the officer in charge at the police station said that he had no knowledge about the reason for my arrest. He said that the DSP of Gumla had asked him to keep me there. It was only after this intervention by these visitors that I was given some food.

I was kept at the Upper-bazar police station for two more days. I was brought to the DSP at Gumla and then to Rayadih police station on October 24, 2003 morning at about 7.30 pm. On October 25th the police tortured me with heavy and unbearable lashes. After several rounds of beatings and other humiliating punishments, they brought me to Gumla police station. There

they took me to the DSP's quarter and made me sit outside his quarter. It looked that the policemen were having some meeting there. In the evening they brought me to Rayadih police station. On October 26, 2003, they took me to the DSP's quarter. The whole day they kept me outside and in the evening they presented me to the district magistrate and then I was sent to Gumla jail.

I see the hand of Mr. Beni Prasad Sahu behind my arrest. However, the one who included my name in the list of criminals is Mr. Kantu Sahoo's father. Kanthu Sahu had beaten me up very badly braking one of my front teeth once; I had filed a case against him for half-murder. Another reason is that Kanthu along with his cousin-brother Ajit Sahu had killed one Phagua Munda of our village after abducting him from the bazar. The Police also had a hand in this incident of kidnaping and murder. My elder brother was a witness to this incident as well. Hence, due to their resentment towards me and my brother, they have included mine and a few other co-villagers' names in this case. Following are a series of incidents that had led to the murder of Phagua Munda and other related incidents.

A few significant incidents that took place in the village before I was arrested

Maoists had their first meeting in our village in the year 2000. It was at about mid night they had arranged a meeting of all villagers. That night the Maoists had asked Harihar Sahu and Naresh Sahu's families to surrender their licensed weapons. They warned them that if the weapons were not surrendered, the Sahus would face undesirable consequences. Since then the Sahus became friends with the police administration. They have given several innocent villagers' names to the police accusing them as supporters of Maoists. Due to this very reason, the Maoists were after the Sahus. Naturally, Harihar Sahu's two sons left the village to live with their relatives who stay away from the village. Harihar Sahu's younger son was a member of what was called a shanti sena, meaning "peace-army," constituted by the SP of the district actually to "catch Maoists." However, the members of this peace army are people with criminal records. They were petty contractors who exploited and oppressed Adivasi villagers. Moreover, Harihar Sahu and his son Naresh Sahu also were contractors. They grabbed all government projects that came to the block development office to be implemented in villages. Phagua Munda, an Adivasi villager had taken a very small scheme, from the block development office, to be implemented in his own hamlet, the members of the santi sena (peace army) had jointly beaten him up at night at his house.

In another occasion on March 22, 2003, along with a few other friends of my village, I went to Udit Pal Sahu's house in a neighbouring village to get a motorized water-pump. Then, Harihar Sahu's nephew Kanthu Sahu attacked me with the barrel of his gun and broke one of my teeth. Several members of peace army too were involved in it. I filed an FIR against them. Later, they threatened me demanding a compromise of this case at the police station. However, I did not succumb to this pressure and Kanthu Sahu was convicted in this case with 10 years' imprisonment in this case.

After about two months, both Kanthu Sahu and Udit Sahu jointly caught Phagua Munda from the nearby bazar, hit him thoroughly, tied him onto a motorcycle, and took him to the police station. At night, they took him out of the police station, killed him at a nearby river and buried him. The

police were clearly involved in this incident since they support the peace army. My brother and another villager were witnesses to this since they informed Phagua Munda's family about the incident. The members of Munda's family inquired about him and could not find him. However, the police did not do anything to arrest the culprits. Finally, when the entire village came to know about the incident, they blocked the main road to move the police to arrest the two men who were mainly involved in this murder case. On investigating the case, the police got Phagua Munda's dead body from a river within the jurisdiction of Basia police station.

Meanwhile, I had gone to Dhanbad to give an examination there. When I returned from Dhanbad, there was a meeting, called by the SP of Gumla, of Phagua Munda family members. Phagua's family wanted a few villagers to go along with them to the meeting. They had called me too to attend the meeting. At the meeting, we demanded compensation for Phagua's family and a government job for his wife. However, the SP and the DSP did not agree to these demands. Towards the end of the meeting, the DSP inquired, "Who is Sylvanus?" I replied, "I am." When all the villagers had gone out of the office, the DSP told me, "You better correct yourself." Then I asked him, "What wrong have I done that you ask me to correct myself?" He, then, said, "Your name has come in the list of Maoists." On enquiring who has given him this list, he replied, "Kanthu Sahu." Then, I told the SP that I had not had anything to do with the Maoists and I was not a person of that kind. However, keeping my name in the list would bring me trouble in future. Hence, I requested him to remove my name from the list. However, he had refused to remove my name from the list and said, "I am not arresting you at the moment; you understand; that much is enough." This way, my name was entered in the list of Maoists.

They used Harihar and Naresh Sahu's murder by Maoists at our village at midnight as an occasion to rap me and a few other co-villagers, who were the main witnesses in the case I had filed against Kanthu Sahu. This was done with the intention to put pressure on them not to be witnesses to the case. Kanthu Sahu's father has clearly played a role in getting our names included in the list of accused in this Maoist murder case. The police has stated in the charge sheet that I was among the crowd that came to commit the murder and I had kicked a woman at the house of the diseased. In fact, none of us had any information about the villagers' and my name being included in this list of criminals. The police kept this list with them for about two-three months in order to show that we were absconding so that they could make the false accusations imposed on us ostensibly true.

Case – 18 – Sandeep Lakra – an 'Extremist'?

Sandeep is a 23 year old young man from West Singhbhum district. He completed his intermediate in 2010. His father is a teacher at a private school. His mother works as a cook at a Non-Governmental Organization. He has an elder sister who is married, and a younger sister who has just completed her intermediate (plus-two).

While talking to Sandeep, he agreed that he has been in the company of a Naxalite group since 2010. His contact with them began while he was doing his intermediate studies in a college at Manoharpur where several boys who were members this group also attended the college. According to Sandeep, he was drawn to Maoist Communist Centre (party) since his father at

home had begun to consume alcohol excessively. Due to his father's excessive alcoholism, he lost the job he had held formerly. Consequently there were severe financial difficulties at home. Sandeep being a young man could not see any hope for the future. "I needed financial support for my future studies, but I could not see any source of income. In such circumstances I was drawn into the company of my friends in the college who had already joined the MCC as a source of money for which we did not have to depend on our family."

Soon after he passed his intermediate examination in 2012, he moved to Khunti-Tamar area to join the MCC which changed its designation as (Bharat Communist Party). There he underwent some training with the group. According to him the party in these areas travelled far deep into jungle areas where people, especially, Munda Adivasi households lived in endemic economic poverty and deprivations. The party, in these areas, held village meetings in consultation with the village-Mundas (headmen) and punches. The party distributed rice, dal, medicines, cloths, etc. to economically deprived families in these interior villages.⁸⁵ Moreover, the party also talked to these villagers about their rights on water, jungle, land and minerals. It analytically showed them how the government is encouraging non-Adivasis to acquire constitutionally protected Adivasi land undermining all protective provisions and legislations. It urged every villager to join the fight to protect their homelands and traditional livelihood resources that rightfully belong to them. Consequently, the villagers felt supported by the party in their struggle against exploitation by *dikus* (stranger exploiters who give troubles to Adivasis) for cultural dignity and the right to live dignified lives.

Thus, with the consent of villages the party proposed to all families that have at least three boys to give a boy child to the party. The party provided some financial support to the family, in turn, to educate the other two children. According to Sandeep, there are several doctors, engineers, and such other public servants whose brother might be an active member of the party. And these men in public service could be called upon to help the cause of the party as well.

Work with the party: a precarious job

For Sandeep, the things the party did were certainly the right things to do. However, he says, "*It was difficult for me to face the economically poor people who were deprived of basic resources to procure essential food and clothing, leave alone other basic facilities like water, electricity, etc. However, the work the party did for them was very tiresome as well. We had to walk, carrying heavy loads of food materials on our back, for hours at night. Moreover, I often felt lonely away from my mother and sisters; there was no holiday to go home. Hence, I got fed up with the party's activities and was deciding to quit the party. Thus, towards the beginning of February 2012, I left for my home without informing the party boss.*"

While at home, towards the end November 2012, he came to know about a surrender policy for "extremists" which turned out to be a trap-racket for several young Adivasis in Jharkhand by

⁸⁵ Fund for the party to carry out these activities came from taking levy from contractors of various types.

certain CRPF officials. The entire surrender-trap was being carried out with the mediatory work of a certain Ravi Bodra whereby more than 500 Adivasi youth, who would be termed as “surrendered Maoists,” were promised jobs with the CoBra battalion of the CRPF. Sandeep too went to the surrender-camp organized in the old jail campus Ranchi. He had hoped, like many other Adivasi youth, to get recruited to CRPF. However, after having spent more than three months in the camp without any sign of being recruited, many of them began to leave the camp. Sandeep too escaped the camp and came back home.

All those who were in the camp had their names and addresses registered as surrendered extremists. Consequently, they were not only looked down upon by society but also were much sought after by the police administration thereafter to make them work as Special Police Officers (SPOs) who would help the police to trace extremists’ camps. For example, the then Superintendent of Police (SP) of the district forced Sandeep to work as a SPO in 2013. He was not given any payment for this job. The SP gave him a weapon; wanted him to help trace “extremist” camps for the police; and guide the police force to reach such places where “extremist” would be camping. He did this job for about three months and then returned the weapon to the SP and quit the job.

Escape to Assam

Soon he received an invitation to join the ULFA in Assam. He thought it would be an opportunity to get out of being trapped with the police as a SPO. Thus, he joined the ULFA to fight the government in Assam. Later the ULFA got divided into two with the Adivasi group forming their own separate rival group called ALNA (whose full form Sandeep does not know). However, he says, “This division was due to *varna/ jati*-based differences.” Later Sandeep moved from Assam to Nagaland at Dimapur for a few months.

Interestingly, while all these happened, he has always been in touch with his mother and sister. While they asked him what he was doing; he would tell them, “I am working.” However, they did not have any idea about the kind of work he was doing. After a while in Dimapur, as he received the news of his little nephew’s sickness and passing away, he came back home in Jharkhand. While he was back at home, he received the news that about six-seven boys of his rebel gang in Dimapur were caught by the Army.

On his arrival home, his mother informed him that the police had visited his house looking for him and they raided the house. The policemen were drunk and shouted at them, asking where Sandeep was. “The policemen who came to my house were so drunk; they could not find a weapon that I had left at home,” said Sandeep. However, this police-raid was in connection with a case in which the police accused him of being a member of a group that demanded levy from a contractor.

By this time, Sandeep had already decided to quit the party. He, therefore, found an advocate with the help of his parents and surrendered at the session’s court. His bail application was

rejected; hence, he had to spend about four months in jail. A second bail-petition was accepted and now he is out on bail and wished to abandon his connections with Maoists.

However, he was arrested a second time while he was sleeping at night at home. The police came home at about midnight and took him to the police station. However, according to the charge sheet filed by the police, he was arrested from a forest; and this time he was presented as an area commander of LWE. Sandeep is presently in jail; his advocate and family are trying to get him out on bail.

Sandeep's story brings to our attention several processes, linkages and some of the causes that draws Adivasis into Maoism. It also tells about the deprivation, marginalization and misery of rural Adivasi households in remote villages of Khunti district which have been predominantly inhabited by Mundari speaking Adivasis. The next chapter briefly discusses some of the historical causes, processes and praxes of Adivasis' presence and their impoverishment in Chotanagpur, in a broader analytical framework, which is essential to understand the complexities associated with Naxalite movement and increasing deprivation and impoverishment of rural Adivasis.

Case – 19 – Manoj Gararai and Harsh Mahato – *The so-called “police informers,” who make a living out of sending false reports to police about Adivasi-Moolvasi villagers.*

Manoj (35) is a Ho (Adivasi) from an interior village in Saranda. He had a bicycle-repairing-shop at Chotanagara. He was making progress in his life by working hard to earn a decent living and educate his three children. And Harish (49) is a para-teacher from Manoharpur. He used to go to Baliba village, far inside Saranda to the government primary school to teach the children. He went to Baliba from Manoharpur (about 65 kilometres) on a bicycle, stayed there during working days and came back home during weekends.

Both Manoj and Harish were arrested by the police in July 2011, kept at the police station for 10 days, then, they were sent to Chaibasa jail. The police assigned the role of a “helper of Maoists” to Manoj. His brother, who works at SAIL Company, paid about Rs. 50,000 as a security and got him out on bail after he had spent eight months inside the jail.

Both Manoj and Harish have been attending Chaibasa court on the date of hearing for the last four years without any sign of their cases getting disposed. For Manoj, it takes three full days to arrive Chaibasa from his village since there is no means of communication to his village; and the distance is approximately 110 kilometres. He pays Rs. 100 to his advocate during every visit and 20-50 rupees to *peshkar*, the one who presents the case to the judge. All expenses, including travel, put together, according to Manoj and Hariish, “Comes to about 500 rupees per trip to Chaibasa. Such trips were more frequent during early days of the case; later, the court-hearing-dates occurred once a month since we pay rupees 50 to the *peshkar* for not to keep the dates too close.”

According to Manoj's advocate, the police filed the charge sheet very late and till date the court has not made any case against him.

About the reason for their arrests, Manoj said, “I was arrested because a person called Sushil Aind, an Adivasi himself, reported to the police that I had helped the Maoists. He did it due to jealousy for I was making some advancement with my little cycle repairing shop. Moreover, the police used to pay Sushil about 5000 to 6000 rupees for being a ‘helper of the police’”

About the experiences inside the jail, Harish says, “Besides having no place to sleep inside the jail, and the lack of such other basic facilities troubled me. The food served was so tasteless that I had to force myself to eat. I did not mingle freely with other prisoners. However, I can confidently say that more than 75 per cent of the inmates are innocent. Since the police/CRPF personnel are not able to get the real culprits who commit crimes, they pick up any “suspected” villager. Moreover, these forces themselves fear to get inside the hiding places of Maoists. Hence, the real criminals are seldom caught. Even if, they are caught, they are able to get out of the jail with the influence of their men outside having resources and knowledge. The innocent ones, who are put inside the jail, lack both the knowhow and resources even to get out on bail. My family paid rupees 60,000 to get me out on bail. We feared losing my job due to my long absence at the school; and hence had to pay such a big sum to get a bail at the earliest.”

Chapter - 5

A few Case Studies of Alleged Naxalite Under-trial Detainees

This section presents some of the case studies that were undertaken up by a different team of advocates and activists⁸⁶ in and out of the courts, including interaction with various lawyers at various levels and the accused persons languishing in different jails of Jharkhand.

The categories of cases are as follows:

1. A few odd instances of blatant torture while in custody, in gross violation of the rights of prisoners.
2. Administrative procedures that amount to blocking and inhibiting trial and pre-trial proceedings while under detention.
3. Serial foisting of cases/re-arrests.
4. Exceedingly faked-up cases that do not deserve cognizance of even arrest, not to speak of case committal.
5. Prejudiced denial of bails.
6. Under-trial detention amounting to unwarranted conviction.
7. Large proportion of acquittals indicates gross misuse of the criminal justice system.
8. Convictions by the lower courts (whether dismissed by the higher courts or not) that reflect upon the sordid state of adjudication.

In our presentation of these case studies we shall even while trying to present a fair variety of cases dwell upon one or two such cases that would fall under many, if not most, of the above-stated categories.

1. Torture in Custody

Torture in custody is found to be a common occurrence. It is a general practice rather than an exception. As a part of their routine of subjugating prisoners, the jail administrations from time to time resort to measures like, beating up some of them under one pretext or the other as a kind of warning to all; sudden raids during which all the personal belongings of the prisoners are ransacked under the pretext of confiscating unpermitted goods, such as cell phones, sharp metallic objects, soporific drugs, intoxicants, marijuana etc.; transferring to solitary cells; putting on fetters; and many other ingenuous ways.

⁸⁶ The group consists of Adv. Shyam Kumar Sinha, Prashant Rahi, and Lix Roj. The group's position is that whatever may be one's perception of the ideology and politics of the Maoist's protracted people's war, the real Maoists active in Jharkhand (distinct from the unfortunate proliferation of renegade and fake Maoists) have been, and do still remain, a definite constituent of the popular resistance of the peasantry, particularly the poor and marginal peasants and other toilers of Jharkhand to the pro-rich/ pro-corporate machinations of the elitist state and its various organs.

During the last few months since we collectively started working (since February 2015) on the problems faced by the prisoners in a few jails of Jharkhand we found two such major instances.

The first one took place inside Ghatsila sub-jail of Jamshedpur district, the border with West Bengal.

We received information in April 2015 (exact date not available) that some 10-12 male prisoners were segregated away from the common barracks and confined to solitary cells far beyond the permissible period as punishment for violating discipline. They were kept in fetters, beaten up frequently, not allowed to walk around for sunshine, the cell gates were kept locked even during the day time, and water for flushing the toilets or bathing was denied. Creating shortages of water has been an invariable ploy adopted by the administration even at District Jail, Seraikela, a neighboring district, as a means to incite grouches and fights among prisoners, leading to more occasions for meting out punishments and beatings. One prisoner was at this time transferred from Ghatsila Sub-jail to Central Jail, Ghaghidih, close to Jamshedpur city, but distant from his court at Ghatsila, in the midst of this mass torture of prisoners to teach him and his co-inmates a lesson.

[Shifting from one jail to another on administrative grounds has been used as a ploy by the State Home Department to delay the trials of alleged Maoists, for distantly located prisoners can on security grounds rather easily be denied production in their courts of trial, regardless of whether the threat perception could be real or imaginary].

On receiving the above information, we informed the office-bearers of an independent local civil rights organization, asking them to try and prevail upon the Jail Administration to put an end to these terrorizing tactics, as well as their lawyers at the Ghatsila Court. But this proved to be of no avail. The situation was reported tense for many weeks since then.

The other major incident, which we came across, took place at Chaibasa District Jail since December 2014, and was a more far-reaching one. This was a fall-out of a jail-break incident that was reported on 09-12-2014. A few alleged prisoners managed to flee during their transit custody from jail to the court and back in an incident that took place just outside the jail gate. Incidentally, this happens to be the jail with what seems to be the largest population of alleged Maoist prisoners (nearly 100) in the state at present. All except one are from the adivasi and dalit sections.

[Based on this estimate, and the figures that we have collected or are acquainted with from about 8-10 of the 10-15 jails of Jharkhand, which should have a significant number of prisoners, out of the total number of 26 jails, as of today, the number of alleged Maoist prisoners in the jails of Jharkhand would hover around 500].

In the jail-break incident two prisoners who sustained bullet injuries from close quarters had failed in their bid to flee. They were caught and subjected to torture. Cold blooded beatings then began since 14-12-2014, five days after the incident. The vengeful attack from the Administration's side was not limited to the two who had been caught while attempting to flee,

an act which, as per the law, was already deemed to be punished with a sentence of about four years.

The Administration soon spread its tentacles, beating up more and more prisoners, conducting frequent raids to harass them, confiscating books and such innocuous items that served as a means of necessity and mental peace. The prisoners were kept in fetters for long, and beaten up mercilessly. Among those brutalized in this way since December 2014 and right up to the end of August 2015, were Bira Hansa Purty, Karan Chaki, Habil Cheruwa, Sanjay Ganjhu, Birsingh Haiburu, Gulshan Biruli, Bisu Bodra and William Marandi.

As a form of peaceful protest against these beatings, the prisoners decided to boycott the Independence Day celebrations on 15-08-2015. Getting wind of the protest plans both before and after the 15th of August, a selected batch of prisoners were subjected to the same form of torture. They were Sanjay Kumar Devgan, Mukesh Gop (13 August), Roiija Kerai and Birsa Samad (17 August), and Prince. Prince, who was beaten up on Independence Day, ironically happened to be a mentally handicapped person!

After the 17th of August, the victims of this spate of torture and beatings sent written complaints to the District Legal Services Authority, Jharkhand State Legal Services Authority and National Legal Services Authority. The Secretary of the DLSA from Chaibasa visited the jail ostensibly to launch an inquiry. Although the complaint about high-handedness, arbitrary punitive action, and inhuman brutalities restored to by the Jailor Shri Saket Bihari Singh and 5 of his subordinate staff had been made by the prisoners, the DLSA secretary gave their version no credence, relying only on the version of the Jailor himself.

The complaint was prima facie dismissed, and the victims behind bars now find themselves helpless in pursuing the matter further in the absence of any strong intervention from social activists and fees to pay their lawyers outside.

We also received information that one of the beaten up prisoners, called Habil Cheruwa, whose brother was killed at the behest of the police outside the jail and their house destroyed, faces a death threat from the police or their sponsored goons on 15-09-2015, the next scheduled date of his production for an ongoing trial at Chaibasa District Jail, and till the time of writing this report we could think of no way other asking the CDRO and its constituents to intervene.

The third instance that came to our knowledge was an old incident which speaks volumes for the torture during police custody prior to the first production of accused persons before a judicial magistrate's court for their formal remand following arrest.

The case came to our knowledge while studying in detail the first charge-sheet filed against a 57 year old adivasi woman, Sheela Marandi, the founding leader of Nari Mukti Sangh which was banned by the Jharkhand Govt. as a frontal organization of the CPI (Maoist), but as per a recent newspaper report, the ban might have been revoked a couple of months ago. She was first shown arrested on 07-10-2006 in the neighboring Sundergarh district of Odisha, just across West Singhbhum district of Jharkhand, and remains in a jail in Jharkhand till date. The charge-sheet

submitted in her arrest case has a medical report submitted to the court at the end of her Police Custody Remand, which clearly establishes her allegation that she was brutally tortured in various ways in a bid to force her to co-operate with the police in their nefarious designs of foisting a series of false cases against her and detaining her over a prolonged period with impunity.

To cite portions from the Medical Report submitted to the SDJM Pamposh, Rourkela after 7 days of her PCR, we may include the following:

Date and time of examination: 15-10-2006 @ 09:45 am.

Vomited twice during the night; no more vomiting since morning; Patient complains of burning pain in the epigastric region (below the stomach), headache, reeling of the head. Administration: Phenergan. She should not be put to any questions expect questions on her health problems. She should not be moved up and down the stairs as she may feel dizzy. Not to be disturbed frequently.

To a team of women social-activist, including Dr. Shoma Sen and Advocate Sudha Bharadwaj, who visited the women accused at Rourkela Special Jail a few days after this medical report was submitted to the concerned court, she was beaten up, particularly in the stomach, not allowed to sleep during the entire period (which amounted to between 10-10-06 and 15-10-16, six days in all) and so on.

2. Blocking, Inhibiting Trials and Case Proceedings

On 12-02-15 when some of us first visited the Central Jail at Ghaghidih, Jamshedpur, we came across a number of alleged Maoist prisoners, all except one from a non-advasi, non-dalit family background, whose trials and case proceedings were held up for a long period, some not even begun because they had been detained too far beyond the concerned court where their cases were pending. Among a total of 20 alleged Maoist prisoners lodged in this jail at that time, not less than 10 had their cases too far from the jail, and hence suffered on account of the inhibiting or blocking of their trials or pre-trial proceedings. They were Rajesh Sinha (the only non advasi, non-dalit), Anil Marandi (he was subsequently brought back under court orders to the Ghatsila Sub-jail for completion of his pending trial), Rakhohari Roidas, Sukhendu Munda, Robi Ghorai, Shobha Munda, Maheshwar Mahto, Shyam Shinku, Tulsi Mahto and Shadev Munda. The last two were juveniles who should have been lodged in a Juvenile Remand Home close to the concerned court for quick disposal of their cases, but had been, indeed still denied this right several months and years after their arrest. Shobha Munda is a woman who has as many as 8 cases pending against her at the distant Ghatsila Court, but has not as yet even been able to appoint a reliable lawyer for her defense in these cases, though she has been in the jail at Ghatsila for not less than 4 years already. Only last week we received a plea on her behalf to arrange for a reliable lawyer for her at Ghatsila in the Additional District and Sessions Court for her session trials with numbers 338/11, 259/11, 201/11, 300/11, 421/11, 17/12, 257/11, and 254/12. Such a small task as arranging a reliable lawyer had remained undone for so long with so

many trials to be conducted, merely because she was not being produced at the court by the Jail Administration with the alleged connivance of the Police Department.

Most of these accused persons are so impoverished and dispossessed, and their families being so terrorized, and also illiterate, that if they happen to be taken to a jail for away from their homes, their concerned courts and/or place of arrest, then they would invariably lose contact for years on end with the outside world, and any friend, relative or well-wisher who could have otherwise helped ensure their right to speedy trials, which happens to be an integral part of every citizen's Fundamental Right to Life and Liberty.

In Loknayak Jayprakash Narayan Central Jail at Hazaribagh, we came upon at least 4 such alleged Maoist Prisoners who were not being produced at their respective courts for sessions trial and pre-trial proceedings merely because they were lodged at a jail in a different district than the one in which their case was pending. The matters of Ranjit Hembrom with at least 4 trials pending in Dumka district, Ramlal Rai with 15 trials pending in Dumka district and 2 at Pakur district, Mukhtar Ansari with seven trials and pre-trial case proceedings pending in Chatra district, and Abhishek Singh with cases in Chatra as also in Latehar were taken note of some 2-3 months ago. However, owing to a shortage of hands, we have been unable to do anything for them. Of these, Abhishek Singh's defense lawyer at Latehar was reported to have sought exemption from appearance for the trial proceedings, as per the provisions outlined in Section 317 CrPC, but the concerned Additional District and Session Judge had refused to comply with the request, insisting that the trial would not begin until and unless the accused appeared in the court for the trial. The trial, therefore, remains blocked. This pertains to S.T. No. 157/11 and S.T. 43/12 corresponding to GR case No. 128/12 in the court of A.D.J. (I) at Latehar.

Is the fate of the prisoners, such as the alleged Maoist leader, Rajesh Sinha with a total of 30 cases at Latehar (10), Palamu (4), Garhwa (10), Gumla (3), Hazaribagh (2), and Ranchi (1) within Jharkhand, and a few more in the border district of Ambikapur in Chhattisgarh, who has been shifted from the Central Jail at Daltonganj, Palamu to the Central Jail at Ghaghidih, Jamshepur, then to Birsa Munda Central Jail, Ranchi and back to Daltonganj with acquittals in 7 of these 30 cases, bails granted in 11, and trials not yet commenced in 6, and trials pending in 15 of the remaining 23, but blocked or inhibited in some way or the other, not a blot on the face of the criminal justice system? Why can all the trials not proceed simultaneously and be disposed of expeditiously? A criminal writ petition was filed on this issue by his advocate, Shri Jitendra Singh (09771905058) in the High Court at Ranchi in order to ensure his expeditious production in the various concerned courts of trials, and speedy trials, but the matter has reportedly failed to come up for hearing since more than a year! (Rajesh Kumar Sinha @ Uday Srivastav vs. State of Jharkhand, Criminal Writ Petition 124/2014 filed on 21-05-2014, and admitted in June 2015). It is hoped that this particular criminal writ petition could serve as beacon for the scores of cases being blocked as a result of often resorted transfers of alleged Maoist prisoners from one jail to another on administrative grounds. More often than not, such transfers are ordered and carried out at the behest of the jail administration with the connivance of the police in gross violation of

the norms, and the prevailing Supreme Court directions against such transfers without the permission of the concerned court of trial (State of Maharashtra & ors. Vs. Saeed Sohail Shaikh, Cr. Appeal No. 1735/2012, date of judgment 02-11-2012, 13 SCC 192, 2012).

This in fact is a major issue that throws light on the deliberate derailment of the due process of law by the State in Jharkhand, and requires urgent attention and the necessary correction.

3. Serial Cases/ Rearrests

Normally one would expect that if any suspected or alleged offender would get arrested in any area of a police station, the police would make all the necessary inquiries about the involvement of that person in as many other offences as may be revealed from both their own records as well as from the interrogation of that person. All such cases would be requested afresh and arrest memos made out on that person's name in all such cases that may have been registered afresh or already registered before. This would also give the arrested person the opportunity to pursue those cases by appointing a lawyer to defend her/himself, and prove her/his innocence or non-involvement in the alleged offences.

This, however, is what rarely happens. The general observation is that cases are foisted after long intervals, one after the other, not all at once for sure. Many a time one may come across instances where another case is foisted just when the earlier case is about to be disposed of, or the accused about to be released on bail, or acquitted in some earlier case/s.

One could come across scores of such instances of serial foisting of cases, wherein the process of arresting and then re-arresting the person again and again in one case after another after extraordinarily long intervals would become a cause for serious concern. In such instances, the possibility of a speedy trial would be ruled out, compelling the accused to remain in jail for an inordinately long time interval, highly disproportionate with what one would find judicious for such an accused person.

The case of the adivasi women's leader Sheela Marandi is a big pointer in this regard. In October 2006, she was arrested with alias names, such as Shobha Munda, Budhani Munda and Mundari with her husband's name written as Kishanda alias Prashant Bose. She hailed from the Giridih district of Jharkhand, but was shown arrested right across the border of West Singhbhum district of Jharkhand in Odisha.

In the arrest case, she was described by the Odisha Police as a member of the Central Committee of the C.P.I (Maoist). In such a situation, one would expect the police of every state in the country to look up their records to ascertain whether any person fitting to her description may have been involved in any offence already registered, and all such cases should have been invoked against her within a reasonable period of time. Instead the Jharkhand Police waited till July 2007 (for a full 9 months) for her release on bail in her arrest case. On her release from jail she was not given a single moment to breathe the fresh air of freedom again. She was arrested at the jail gate itself in a case registered the previous year in West Singhbhum, wherein her name had originally figured nowhere in the charge-sheet. The question may be asked as to how could

the concerned magistrate in West Singhbhum grant the permission to arrest her in such a case? And why could this arrest warrant not have been carried through in the previous year soon after her arrest in Odisha? These questions remained unanswered all through the 9 years she has spent in various jails since then, until two and a half years ago, when one of us, who had to spend one of those two and a half years in a jail himself, began looking into her matters.

After being re-arrested and sent to jail at Chaibasa, West Singhbhum, another case of that district was foisted upon her. She had to spend all of two and half years in that jail until the trials could be conducted and her innocence established. Soon after she was brought to the Chaibasa District Jail, the police of her home district Giridih brought to the Chaibasa court a warrant for her arrest in a case in Giridih. She was, however, not taken to the relevant court in Giridih all through those two and a half years until her acquittal in the two Chaibasa cases. Who would account for those lost two and a half years in addition to the 9 Months in the Odisha jail? Then again at Giridih District Jail, where she was taken to from Chaibasa Jail, she was not allowed to be released in spite of having furnished the required sureties and the necessary bail bond, and the concerned court having issued the order of her release on bail. The charge-framing in this case remained in abeyance for several years. Here, in this case, her real name, Sheela Marandi was not even mentioned in any of the case papers. She was arrested as Shanti Devi, merely on the basis of a registration slip seized in an old Nimia Ghat P.S. case of 2005, wherein the name Shanti Devi was mentioned as a patient having received medical treatment. The police have till date not produced any evidence to corroborate their claim that Sheela Marandi ever used the name, Shanti Devi.

Subsequently, she was implicated in yet another case of this same Giridih district registered at Peertand P.S. in connection with a violent incident involving some Maoist cadres, said to have occurred in January 2008, when the accused Sheela Marandi was very much behind bars at Chaibasa district Jail. How could such a case be taken into cognizance at all, and committed for trial at the sessions? Till date, no witness has turned up to depose in this trial, and yet this case hangs like a Damocles' sword. In this case, however, the name, Shanti Devi was allegedly associated with Sheela as an alias name, and it was this association of the two names that led to two more cases against this person in Giridih district. Both these cases pertained to much older incidents, one in November 2005, and the other as far back as June 2002. If the Shanti Devi alias Sheela accused in each of these two old cases may have been the same Sheela Marandi who was shown arrested in October 2006 in Odisha, why were the two not invoked much earlier following that, the first arrest? Why were they invoked so much later, only after being brought to Giridih Jail, and the accused implicated in a much later incident? Does it not show utter callousness on the part of the Giridih Police, much to the detriment of the accused, prolonging her detention period most unjustly? Could this retarded foisting of cases not have been a deliberate ploy to extend her detention period?

Then as she was granted bail by the High Court in all these 4 Giridih cases, one by one, and the required sureties and bail bonds furnished, just as she was due to be released, she was again re-

arrested from within the jail itself at Giridih in February 2012 by the Dhanbad Government Railway Police in a case implicating little over a year ago someone called Shanti with no such alias name as her real name Sheela or Sheela Marandi or Sheela di. This again happened to be a very old case, registered far back in 2003. Even though there happened to be no prima face evidence in the FIR and the charge-sheet that this Shanti was Sheela Marandi, the concerned court allowed her arrest and took cognizance of the charges, going on to even frame the charges for a trial.

The trial then happened to remain blocked since January 2013, when she was ordered to be released on bail in this case from Dhanbad Jail. Instead of being released forthwith, she was detained illegally in that jail for three extra days, until yet another warrant was issued for her arrest through a court at the next neighbouring district of Bokaro, namely the court at Bermo (Tenu Ghat). The arrest warrant was issued in a case pertaining to a violent confrontation involving Maoists, which was reported to have occurred in April 2007, pat in the middle of her nine months stint in the Odisha jail! Here again, the criminal justice system failed to take note at the outset of the outright improbability of the accused having been involved in any way in the reported offence.

In this way the adivasi women's leader came to be implicated in at least nine cases one after the other over a prolonged detention period of nine years till date from October 7, 2006 onwards. Of these 9 cases, her involvement could not be proved in two cases, and in two other cases, wherein the reported incidents were said to have occurred when she was confined and constrained as an under-trial detainee, her involvement was prima facie improbable. That leaves us with five cases: three at Giridih and one each at Rourkela and Dhanbad. In the Dhanbad case, the identity of the accused named as Shanti was not identified as Sheela Marandi, and hence deserved to be dismissed. That would leave us with only four cases worth a trial – one the arrest case at Rourkela and three cases at Giridih. In some of these cases, the charges have not been framed even as yet, the trials yet to begin. Over this long period of nine years in various different jails, it has by and large not been possible to produce her in any court outside the district in which she remained behind bars. This has compounded the problem of pendency of the cases arraigned against her.

It still cannot safely be said that no new case will be foisted upon her with the last pending case likely to be disposed of in early October this year. Or that her non-production in her previous cases will not lead to *de facto* cancellation of her bails in those cases.

The matter is a serious issue that brings out the sordid pattern of foisting multiple cases against not one or two isolated accused persons, but a large number of persons in various jails that have been, and are being, visited by our team at present.

4. Exceedingly Faked-up Cases

As we have reported in the above, at least two of the cases could be considered prima facie fake cases, and certainly not worthy of cognizance, had the court of law not been adversely biased against the accused.

Apart from the above, we could also mention a case that was taken cognizance of by a magistrate's court even though the final report (charge-sheet) had a clear remark by the I.O., which suggested that there was no evidence whatsoever against the accused person and that the accused was found innocent.

Even so, the concerned lower court went on to take cognizance of not the charge-sheet, but a seizure memo that carried a mention that the accused (arrested in this case from Central Jail at Ghaghidih, Jamshedpur) had led the interrogating police officials to a certain spot to help recover certain objectionable things, and that there was a sudden land-mine explosion at the spot which caused serious damages to the police party.

Now the matter to be considered is how the accused person could have known, while being locked up in jail for so many years without interruption that there would be a land-mine blast with potential to kill or maim or still fear in anyone's heart at that specific spot? This was nothing but a clear-cut impossibility.

It would require far too little reasoning to argue and establish that this was a faked-up case aimed at prolonging the detention period of the accused well beyond the judicious limits. Bail was refused to the accused in this case by the Sessions Court at Ghatsila, and the matter is now slated to be taken in appeal to the High Court.

5. Prejudiced Denial of Bails

Getting bails from any court of sessions for such prisoners as those incriminated under 17 CLA, UAPA, or the IPC sections 121 to 153 is absolutely ruled out. This is so even for women, old persons and also juveniles. The High Court of Jharkhand has been the only resort to seek bails under section 439 CrPC for such offences. This makes it a very costly, and nearly impossible affair for all the adivasi and dalit prisoners, whose families – having virtually no prior engagement with such legal matters, and further handicapped due to their lack of education and discomfort while dealing with an urban environment, inclination to be submissive on account of their own upbringing in a feudalistic environment, and the proliferation of touts and the chain of unscrupulous lawyers from the lower to the higher courts – find themselves absolutely helpless.

In such a helpless situation, the only glimmer of hope happens to be the sprinkling of politically conscious and socially dedicated activists and cadres, primarily those lodged among them as fellow prisoners. It is precisely these activists and cadres, mostly those from humble backgrounds, who might ascribe to the Maoist ideology and political perceptions, and now with this opportunity to engage with the process of bourgeois law, have been trying to help their brothers and sisters in struggle to get a semblance of legal support and go in appeal to the High Court for bail (as also for their defense in their session's trial, appeals against any conviction, etc.). There is currently no mechanism of worth in place outside the jails to fetch bails for these

inmates, anywhere in the state. It is rather unfortunate that we happen to be the rare few to have offered and volunteered to help in all such matters. The task, however, happens to be far too stupendous for our capacities.

If the prisoners happen to be accused under the UAPA, the greater possibility is that even the High Court would refuse to grant bail on some pretext or the other. For instance, the last of the few cases against veteran Maoist leader, Narayan Sanyal who had to spend as many as nine years of his life in various jails. His recent release on bail would not have been possible unless a Supreme Court lawyer had not agreed to seek bail for him *pro bono* (without the usual fee), and if no social activist had come forth to perform such mundane and seemingly ordinary tasks as collecting all the necessary case papers and hand them over to her.

Resident of Telangana, B. Anuradha, who happened to be arrested at Hazaribagh on a busy street with her husband Ravi Sharma some six years ago, could not be released for several months in spite of having been granted bail by the High Court. The reason was that the terms and conditions stipulated by the relevant lower court at Latehar (where an additional fake case had been foisted upon her) were that the bailor should necessarily be local resident of Latehar district in Jharkhand, and worse still, a government employee. With no such contacts or relatives in this state, her family members remained utterly nonplussed for weeks on end, until we somehow managed to get her such a bailor from Latehar.

Her husband, Ravi Sharma, also from Telangana, who was implicated in many more cases still remains, denied the opportunity of a release on bail because he was falsely accused in the same violent incident at Tenu Ghat (Bokaro district) along with Sheela Marandi and several others. In his case, the High Court's denial of bail was primarily based on its observation that his co-accused Sheela Marandi had also been denied bail. And why was Sheela Marandi (who, as already stated, was confined to a jail at the time of the Tenu Ghat incident) denied bail by the High court? Because her lawyer, in his bail application, did not write the same name in place of her husband's name as was alleged by the police in the relevant charge-sheet.

Justice Prashant Kumar, in his bail rejection order dated 18-02-2014 (B.A. No. 8908/2013), observed that the application carries the name, Brijesh Munda (the name which the accused is known to have stated to the police all along since her arrest in Odisha in October 2006) in place of her husband's name, whereas in the charge-sheet filed by the prosecution in her first Odisha case he husband happens to be described as Kishan Das alias Prashant Bose, and in her last Tenu Ghat case, Kishan Da alias Basant Ghosh. From this, the honourable judge has inferred, in his bail rejection order, that the accused is alleged to have been involved in several offences across states, and it appears that she has not only been using different alias names for herself but also been using different husband's name's different places across different states!

Any person with the least interaction with Maoist women cadres would know that such tactics as changing husband's names seldom need to be adopted. Why would women Maoist cadres flaunt their husband's name at all? And who would they wish to hoodwink by using different husband's names in different places? The common masses, whom they are known to mingle with and trust

most of all? Or the police, who would confront them only during occasions such as a chance arrest? On being arrested why would she cite different husband's names? The reality is crystal clear. It was no one but the police themselves who had written different husband's names in different charge-sheets, and the husband's names used by the police in the various cases arraigned against her do not match with the name of the person whom the accused has been referring to as her husband. It was due to this strange but harsh reality that Sheela Marandi has been into custody for the last one year after the denial of bail by the High court on the above ground.

The enlightened bench of the higher judiciary could not see this obvious fact embedded in the discrepancy of husband's names. The question is: Why did the bench fail to perceive what was so obvious? The only plausible reason would be that he had full faith in whatever the police would allege about the accused person. Had it not been so, he could have simply asked the defense counsel for the accused to file a correction petition to change the name of her husband from the one she had insisted upon to the one which the police had used in the charge-sheet, and thus remove the purely technical discrepancy. With highly-placed judge being as suspicious about technical non-issues as an ordinary policeman in the street, how can any alleged Maoist under-trials hope to get bail from the High Court?

Experienced lawyers in the High Court at Jharkhand tend to suggest that in such cases (those of alleged Maoists), un-prejudiced judge are a rare commodity. Does this not suggests that there is an unwritten ban in the High Court on granting bails to alleged Maoist offenders, regardless of how many years they may have spent in custody as under-trials? Can such a legal set-up be called democratic by any means?

6. Detention Amounting to Conviction

In jails across the state, from Chaibasa to Dumka, and Giridih to Daltonganj, there would be a significant number of prisoners who, in the above circumstances, would have spent or deemed to spend a considerably long period in detention as under-trials.

The cases of Narayan Sanyal (released recently) and Sheela Marandi (who, it is hoped may be released soon) are stark examples.

Each of them has been behind bars for all of nine years. Of them, Sanyal was convicted in one of the five cases foisted upon him, but the conviction was set aside and the sentence (life imprisonment) suspended when his appeal was admitted by the High Court of Chhattisgarh. He was acquitted in only one case so far. He still remains an under-trial in three cases across two states (Telangana & Jharkhand) and three districts (Khanmam, Giridih and Hazaribagh) and is, in his late 70s, still obliged to attend his three trials across the country. Sheela Marandi had a total of nine cases foisted upon her of which she was acquitted only in two, and remains an under-trial in as many as seven of these nine cases, with the charges not even framed in a couple of cases as yet all these years.

The prolonged detention and the exceedingly slow pace of progress of the cases, especially retarded due to the serial foisting of multiple case, jail transfers on administrative grounds, non-production from jails to all the courts on the respective dates of hearing, production through video-conferencing also hindered for months and years on end due to technical failures of the machinery, communication failures and administrative lacunae – all these together result in the accused persons being punished for offences which they may not have committed.

Would this state of affairs not suggest that a large number of people have been so punished merely on the political grounds of their oppositions to the policies of the reigning state? Could some of these policies not be anti-people, exploitative, and leading to the rapacious plunder of the natural resources that belong not to the state and the corporate houses which it supports, but to the peasants and other toiling masses who have been their care-takers and possessors for centuries together, who are the real owners of our national wealth?

7. Acquittals Suggesting Basic Flaws

A section of the intelligentsia has been raising a ruckus over the low rate of convictions in cases related to Maoist activities. That this fact is true cannot be denied. The precise data that we have from three jails having a significant number of alleged Maoist prisoners does corroborate this fact.

In Daltonganj Central Jail in Palamu district, the convicted prisoners are 2 in number, out of the total of 21 prisoners with Maoist-related cases. This does suggest a low percentage of convicts among this category of prisoners. However, a large number of these prisoners were arrested only within the last 2-3 years and they have, or are likely to have, a large number of cases foisted upon them in several police stations across districts, even states. One can never rule out the possibility of conviction, especially so given the fact that there happens to be no effective mechanism at their disposal outside yet that would help provide them with the necessary level of competence in their legal defense.

In Ghaghidih Central Jail in Jamshepur district, 4 out of 17 prisoners with Maoist-related cases as of today, happen to have been convicted with life sentences even if their sentences may have been set aside with the admission of their appeal in the High Court. This amounts to a significant proportion of convicts, though nearly three-fourths, i.e., an overlying majority, are still merely under trial.

In Chaibasa District Jail in West Singhbhum district there are as many as 95 prisoners with Maoist-related cases as of now. Of these not more than 5 persons have been convicted in a single case each, with life sentences.

In Loknayak Jayprakash Narayan Central Jail in Hazaribagh, though we still do not have the exact figures, our visits there have given us the same impression: that there may be not more than 10 percent prisoners convicted with life sentences in such cases.

Therefore, it can certainly be concluded that a overwhelmingly large number of the prisoners facing Maoist-related case are simply under-trials. Many of them might get acquitted ultimately, whether or not they may be released on bail. Would the consistently large proportion of acquittals among prisoners with Maoist-related cases not suggest that draconian enactments like the UAPA in its present shape, and the old section 17 of the CLA Act are simply being used by the state as an instrument of oppression to stash away such of its political opponents who may not have fallen prey to greed, individual gain, and may refuse to acquiesce and conform to the norms set by the state for its subjects?

8. Convictions that Reflects Poor Adjudication

Even among the few and far between convictions, one could come across a number of such adjudications that may reflect rather poorly upon the administered level and quality of justice.

The Jitan Marandi case was a major pointer. In mid-2011 he was convicted with a number of sentences, including capital punishment. The same year the High Court, which heard his appeal amidst a rising crescendo of dissenting voices outside the court, rejected the entire conviction, not just the death sentence!

The question is: How did the lower court take the decision to convict him in the first place? The mere grounds for the conviction were fake depositions by Prosecution Witnesses who had been tutored by the Police. The fake nature of these depositions (identifying the accused in court) were exposed by his defense counsels in the High Court, armed with facts that went to show that the fake witnesses were none other than surrendered naxalites who would naturally be inclined to say and do anything that the police would ask them to.

Although it was fortunate that the conviction was set aside eventually, the very fact that the conviction did happen at the lower level reflects nothing but the fact that the lower judiciary cannot be trusted to deliver justice. The situation is further complicated by the dearth of good, dedicated lawyers who may work as hard and as efficiently and competently as required in such serious cases.

This also points out to the amount of work that needs to be put in to build up the proper mechanism for the legal defense of the large number of prisoners in Maoist-related cases. At present, the estimated number of such prisoners that need to be looked after appears to be about 500 to be conservative, but certainly not more than 1000 by any chance. A large number of prisoners may have got out on bail over the last decade or so since the spate of arrests gathered momentum with the pace and increasing intensity of the Operation Green-hunt launched with great fervour by Union Home Minister, P Chidambaram in 2009 in the wake of the December 31, 2008 amendment in the UAPA. Together, those facing trials inside and outside the jails and those who have filed appeals against their convictions may turn out to be a few thousand. Accurate figures from within the jails and the concerned courts, as also from those who may have been released are still awaited.

Chapter – 6

A Broader Analytical Framework and Explanations

Adivasi-Moolvasi societies in rural areas have increasingly been impoverished by multiple and complex processes, especially, political and socioeconomic exclusion by the state system which embodies structural and cultural violence. The gross neglect of rural Adivasis' agrarian grievances (increasing lack of access⁸⁷ to land, diminishing agricultural production and unemployment) while simultaneous and relentless exploitation of the region's forest and mineral resources for "developing" select group of elites (urban professionals, industrialists, large holders of irrigated land – the kulaks – top bureaucrats, and politicians)⁸⁸ in the country, which disproportionately deprive (de-develop) Adivasis and their territories, further aggravate the situation.

Quite paradoxically, the buzz-word that is being employed to justify these unjust processes of dispossession of Adivasi-Moolvasis is "development," a concept propagated by the state in India devoid of any sense of equity, justice, human rights and concern for environment and ecology. Furthermore, almost all studies that have examined Adivasi issues, such as LWE, and violation of human rights, etc. so far, have limited their analysis up to a point where they hold British-led Indian colonialism, which ended more than half a century ago. This misplaced preoccupation verily functions as a deadlock that restricts the depth of sociocultural and historical analysis of Indian society. Consequently, most analysts keep blaming British-led Indian colonialism while they conveniently undermining the main causes of ruling Indian elites' reluctance or inability to overcome the so-called "colonial legacies," which calls for a serious self-critique.

Hence, this chapter attempts to broadly explain to fundamental questions: first of all, why and how Adivasi societies have historically come to occupy the type of territories – forested and hilly terrains with abundant water and mineral deposits – that they have long inhabited. Secondly, it reflects why the state in India, which represents the so-called "mainstream," cannot think of "development" without destroying the forests, rich ecosystems and dispossessing Adivasis of their traditional livelihood resources. In order to answer these questions, this chapter attempts to draw a philosophical genealogy of the emergence of the idea of state (*sarkar*) and politics (*raj-niti*) in India and shows that there has been an enduring ideological schism existing between Adivasis – who could also be qualified as the hills people – as opposed to the plains people who

⁸⁷Access is defined broadly as 'the ability to derive benefit from things' [Ribot, J.C. (2003) 'A Theory of Access', *Rural Sociology* 68(2): 153–181].

⁸⁸ 'The constituents of this iron triangle (urban professionals, industrialists, large holder of irrigated land – the kulak –, bureaucrats, and politicians, all strongly linked to industrially advanced countries) are forcing the country into a pattern of exhaustive resource use at the expense of the environment and a majority of the people' [Gadgil, M. & R. Guha (1995) *Ecology and Equity: the use and abuse of nature in contemporary India*, London and New York: Rutledge: pp. 36]; 'Polluted skies, dead rivers, disappearing forests and displacement of peasants and tribals are what we see around us 40 years after the Chipko movement started [Guha, R. (2013) 'The past & present of Indian environmentalism,' *The Hindu*, 27 March: p. 1].

have also been qualified as the state-centric caste Hindu groups. Thus, the chapter explicates the unabridged schismatic gap to be able to reflect further on the needs to satisfactorily bridge this gap. Finally, the chapter shows that it is the “mainstream” that need to be more self-reflexive and self-restricting to be able to reform and to be able to extend sympathetic solidarity to its own transgressed, aggrieved, impoverished and the most marginalized sections in their own terms since the state system in India has been too exploitative, self-aggrandizing and oppressive due to which the most impoverished section of Indian society have been forced to give expression to its radical and revolutionary concerns via extremist ideologies and activities, which is destructive, in the absence of any other viable and affordable channel to redress their genuine and long neglected grievances.

The chapter begins with the much familiar British-led Indian colonial period, then, moves to pre-British Indian colonial period by conceptualizing the caste/ *varna* system to be an exploitative and oppressive colonial and racist system on which the earliest ideas of politics and the state in India have been based. While doing this, the chapter redefines Adivasis as hill peoples who escape/ avoid/ resist the caste/ *varna* system and its colonial desires and ideology – the pursuit of Lakshmi.⁸⁹ By reconceptualization Adivasis, it seeks to restore, at least in theory to begin with, a deeper, more useful, realistic and dignified role to people who have chosen to name themselves as Adivasis. Moreover, such reconceptualization also enables the reader to analyse, understand and see why predominantly Adivasi regions in India have consistently been exhibiting increasing descent, resistance, which engender perennial conflict of interests. The chapter is divided into three parts: the first part draws a philosophic genealogy of the idea of politics and the state in India as a significant analytical framework. The second part, briefly explains underlying ideological and schismatic differences that cause Adivasi deprivations, resistance and long-standing unresolved grievances and consequently growing LWE to be one of the several symptoms of Adivasis’ unresolved, and perhaps, unresolvable deadlock unless the so-called “mainstream” learns to reform itself. The third part explicates the underlying differences between the core values of traditional Adivasi and mainstream capitalist societies and proposes to uphold the former’s cultural values as more humane and sustainable. The chapter begins with a misled, but a familiar rhetoric of blaming British-led Indian colonialism for all kinds of anomalies in Indian society today.

British-led Indian Colonial Period

Historically, since the British-led Indian colonial period, processes of oppression, exploitation, dispossession, impoverishment and marginalization have occurred heavily on Adivasis who had remained attached to their traditional livelihood resources, such as land, forest, and water-bodies. Moreover, while being subjected to forceful and insidious encroachment of their traditional rights, for the impoverished Adivasis it was perhaps inevitable that they stuck to their traditional sociocultural, economic and political organization and practices, their cultural values, world-

⁸⁹ Lakshmi is a popular Indian pantheon of wealth, power and good fortunes, possessing her one desires to be semi-gods who would begin to consider the toiling masses as expendable objects at their disposal, quite attune with the way neo-liberal capitalism views the world, and its natural resources including human beings.

views and ways of life, which they have developed through centuries of relatively isolated but free and contented life experiences.

However, the so called “enlightened” British-Indian colonists, with their ethnocentric views, declared Adivasis as “primitive” and “uncivilized.” Any colonist needs to do this in order to legitimize the immorality and violence inherent in processes of exploitation and impoverishment unleashed on a people being colonized. Moreover, no colonizer imposes colonial structures (a system of rule) unilaterally, instead colonialism, like any other political systems, emerges, evolves and matures through constant negotiation of power relationships and identities. In India, it was on the strength of the caste/ *varna* based brahmanical statecraft the British superimposed their supremacy. Consequently, the exploitation of Adivasis’ commonly owned resources was accelerated since it also benefited the caste-Hindus who accompanied the British from the plains into Adivasi (hilly) regions. However, as the overexploitation of natural resources and Adivasi societies accelerated, the ideological basis of their social structures – religious and cultural – began disintegrating beyond their comprehension. Consequently, an array of rebellions, insurrections and socio-religious and cultural revival movements occurred. (These complex processes will further be analytically elaborated in part-2 of this chapter below).

Adivasis, by way of their numerous rebellions and insurrections (from the beginning of 1700s to 1900s),⁹⁰ made the British colonists aware of the distressing damages and unrest caused to their distinctive social-cultural systems by colonial exploitation. Consequently, the idea of non-regulatory administration, such as ‘Scheduled areas, Scheduled Areas Act, and the concept of scheduled districts emerged since 1835, which were later translated and incorporated into the Fifth and Sixth Schedules of the Constitutions of India and the more recent PESA and other legislations favouring Adivasis. Besides these, the Kolhan, Santal Pargana and Chotanagpur, regions also received their uniqueness recognized by separate peoples’ movements – Kol-Rebellion, Santal-Hul and Birsa-Ulgulan – all (the above constitutional provisions and these legislations) pointing towards the need to recognize not only the rights of ethnic groups to be able to keep up their unique sociocultural traditional and cultural values and practices but also the right to self-determination including the power to control and use the resources in their geographical territories the way they decide to. These rights have also been incorporated and clearly reflected in the spirit of the Wilkinson’s Rules 1837 in Kolhan Government Estate – presently the entire West Singhbhum district – the Santal Pargana Tenancy Act 1949, applicable in Santahl Pargana and the Chotanagpur Tenancy Act (CNTA) 1908, applicable to the entire Chotanagpur region of Jharkhand.⁹¹

⁹⁰ Most significant of them being the Kol insurrection of 1831-32, in which the Hos of Kolhan had played a leading role, and the last being the *Ulgulan*, the Munda uprising under the leadership of legendary Adivasi rebel leader Birsa Munda during 1885-1900 in Chotanagpur [Jha, J.C. (1964) *The Kol Insurrection of Chotanagpur*, Calcutta: Thacker, Spink & Co. Pvt. Ltd.].

⁹¹ Sundar, Nandini (2009) (ed.) *Legal Grounds: Natural Resources, Identity and the Law in Jharkhand*, New Delhi: Oxford University Press: Appendix by Sharan, R. & C. Upadhyaya ‘Laws Related to Land and Resource Rights in Jharkhand’, pp. 217-228.

However, these significant Constitutional provisions and legislations that favour Adivasis have grossly been manipulated, undermined and violated by both the central and regional states in India that have their ideological forces that contradicts that of Adivasis. In order to understand these basic and unresolved contradictions, a philosophical genealogy of what is called the “Indian Ideology” and the state in India is briefly traced.

I

A Philosophic genealogy of the Ideas of Politics and the State in India

According to Abrams, “The state is not the reality which stands behind the mask of political practice. It is itself the mask which prevents our seeing political practice as it is.”⁹² Hence, it is important to delve deep into the concept of “the state” (*Sarkar*), the idea of which in India has been constructed almost venerably as an unquestionable mystery. Politics deals with control and distribution of resources which is the source of power. No matter how it is has been acquired, power remains always in excess. It ultimately results in control of resources and other persons who are rendered powerless by the very process of acquiring power.

The state in India emerged through complex, long-drawn, and conflict-ridden historical processes whereby more egalitarian and flexible kinship (*lineage*) based social formations⁹³ were gradually evolved into *yajamana* or king or *chacravartin*-centered societies with rigidly graded stratification⁹⁴ based on the principle of “purity” and “pollution”.⁹⁵ This principle which emerged and spread as a pan-Indian religio-cultural ideology has been the guiding principle of state formation in India. The principle that grades humans on the basis of purity and pollution is also called the “Manu system” or “Political Brahmanism” (PB).⁹⁶

PB initially emerged in fertile plains of the subcontinent. Gradually, it established and spread its doctrine throughout the plains in the course of history. It also established itself as powerful relations and modes of production forming hierarchically and rigidly stratified societies that justified exploitation of the weak (those constructed as “impure”) who were numerous by a handful of powerful elites (who declared themselves as “the pure”). This has been a very handy technique of statecraft, which conducted the conduct of people even without the use of military

⁹² Abrams, Philip (1988) 'Notes on the Difficulty of Studying the State,' *Journal of Historical Sociology* 1(1): 58-89.

⁹³ A social formation is a descriptive concept which specifies the forms in which the conditions of existence are determined by its relations of production; it is a social entity organized on the basis of specific economic, political and ideological components with its unique territoriality and history. It is a dialectical expression of what is loosely referred to as 'society'. The phrase, 'mode of production,' is a theoretical instrument which entails the material and ideological dimensions of social (relations) structures. While the latter constitutes the object of social science inquiry, the former functions as theoretical tool to achieve the object (of social science) of a conjoint (dialectical) social entity [Saha, S.K. (1986) 'The Historical Premise of India's Tribal Problem', *Journal of Contemporary Asia*, 16(3): 274-319: p. 304].

⁹⁴ Sharma, R.S. (1959) *Political ideas and Institutions in Ancient India*, Delhi: Motilal Banarasidass.

⁹⁵ Dumont, L. [1966] (2004) *Homo Hierarchicus: The Caste System and Its Implications*, Complete revised English edition, New Delhi: Oxford University Press.

⁹⁶ McClish, M. R. (2009), *Political Brahmanism and the State: A Compositional History of the Arthasastra*, doctoral dissertation, Faculty of the Graduate School of The University of Texas.

power. PB as an effective and handy ideological statecraft has been the generally accepted paradigm (doxa) of social living seldom critiqued, but considered as divinely ordained in India.

Political Brahmanism Equals Colonialism and Racism as Process and Praxis

Using Jean-Paul Sartre's conceptualization of colonialism and racism as process and praxis, it is possible to conceptualize caste/ *varna* system as a system (or process and praxis) in which colonialism and racism operate hand in hand. According to him, while **colonialism** grabs the resources of the other (however defined as stranger, 'evil,' 'uncivilized,' 'primitive,' etc.) by super-exploitation and impoverishes the other, **racism** simultaneously defines the impoverished colonial subject as 'backward,' "weak," "ignorant," and hence, needs to be "civilized," "developed," and "educated."⁹⁷ The buzz words like "development," "participation" and "education" often cover up or even erase the historical processes and praxes that have systemically been producing "backwardness," "weakness," and "ignorance" of the people whom the colonists impoverish and want/ will to "develop,"⁹⁸ while they control the resources of whom they define as "backward." Thus, colonialism and racism work as process and praxis forming itself a self-reproducing system.

Similarly, caste or *varna* system is process and praxis that began when the traditionally powerful elite, in the process of history, declared themselves as "twice born" or "purer" in contrast to the rest of the toiling populace whose resources have been appropriated by the former eventually establishing themselves as "higher" or divine beings.⁹⁹ This process has evolved into an overarching socio-cultural ideology whereby populations in India (irrespective of religious affiliations) have come to be bound in an "evasive unity"¹⁰⁰ which the elite Indian nationalists did/ do not want to critique, re-examine to reform since it served to sustain the existing unequal power relations that disproportionately benefit them.

⁹⁷ Sartre's conceptualization of colonialism and racism as process and praxis is significant and can be observed universally since it is inherent in social action. Humans try to judge one another to understand (define) and control each other in course of interacting as embodied beings. Hence, there is violence inherent in human interactions, relationships that eventually form social structures and systems. The ill-effects such violence can only be minimized by self-reflexivity and the conscious practice of sound ethics practices, frequently evaluated/ critiqued, clarified, redefined on a daily basis – **being is becoming**. See Sartre, J.P. [1960] (2004) *Critique of Dialectical Reason Vol. 1: Theory of Practical Ensembles*, Trans. A. Sheridan-Smith, Ed. J. Ree, Foreword F. Jameson, London & New York: Verso.

⁹⁸ Li, T.M. (2008) *The Will to Improve: Governmentality, Development, and The practice of Politics*, Durham and London: Duke University Press.

⁹⁹ "The Laws of Manu is one of the most exemplary texts of ideology in the entire history of humanity... What we find in Veda is the brutal cosmology based on killing and eating: higher things kill and eat/consume lower ones, stronger eat weaker, i.e., life is a zero-sum game where one's victory is another's defeat" [Žižek, S. (2012) 'The Apostate Children of God', *Outlook Magazine*, 20 August].

¹⁰⁰ Berger, P. & F. Heidemann (2013) 'Introduction: The many Indias – the whole and its parts' in Berger, P. & F. Heidemann (eds.) *The modern Anthropology of India: Ethnography, Themes and Theory*, New York: Routledge: 1-11.

Understanding the Home-grown Indian Colonial System Better

Caste/ *varna* system (understood here as colonialism and racism as praxis and process) originated in India with the emergence of what is called the rise of “Hindu elitism”¹⁰¹ or ‘Political Brahmanism’. Hindu-elitism stresses the “purity” of those established themselves as *dwija* (twice born) as against the “impure,” the majority toiling masses that came to be constructed as “once born” or “lower” human beings. This correlates well with Sartre’s explanation of how a perfect colonial system takes shape and becomes operational:

the colonists are human beings by *divine right*, and *the natives are subhumans*. That is the mythical interpretation of a precise fact, since the wealth of the former depends on the extreme poverty of the latter. This exploitation makes the exploiter dependent upon the exploited. And, on another level, this dependence is at the heart of racism; it is its profound contradiction and bitter misfortune. .. For the colonizer, being a man means first of all being superior to the colonized.¹⁰²

The traditional elites in India attributed “purity” to themselves and eventually differentiated themselves from the rest of the toiling populace. This is prompted by what may be termed as a peculiar Indian colonial desire¹⁰³ that would set India’s elites on an endless cycle of chasing some mirage.¹⁰⁴ In short, unrestricted and un-critiqued “colonial desires” in human beings manifest themselves in distorted and inauthentic relationships being perpetuated. Such distorted, inauthentic and unjust relationships solidify themselves into social structures and systems which eventually incarcerate and dehumanize both those who benefit from the system as well as those enslaved by it. Such systems remain self-reproducing by maintaining hegemony over enslaved masses and grab their resources (colonialism); and when these enslaved become devoid of basic capabilities, they, in turn, are labelled as “lower” beings (racism). While such an enslaving state system emerged and expanded its enslaving grip over toiling masses in the alluvial plains of Indian subcontinent, there might certainly have been people who would have escaped or managed to keep themselves away from such dehumanizing grips of state circles. Those who might have, thus, escaped and kept themselves away from such dehumanizing state system (Adivasis/ Scheduled Tribes; see below) deserve more attention.

¹⁰¹ Saha, S.K. (1986) *The Historical premise of India’s Tribal Problem*, op. cited: p. 277.

¹⁰² Sartre, J.P. [1964] (2005) *Colonialism and Neocolonialism*, Tran. A. Haddour, S. Brewer and T. McWilliams, London and New York: Routledge, Taylor & Francis e-Library: p. 37 (emphasis added).

¹⁰³ Young, R.J.C. in the context of classical European colonialism, has shown ‘the emergence of colonial desire in history, its genealogy and its disavowal in the history of radicalized thought.’ His *Colonial Desire*, London: Rutledge. (1995) shows how humans operate in complicity with historical ways of viewing ‘the other’ (Ibid.: ix).

¹⁰⁴ See Breman, (2010) ‘The political economy of agrarian change in India’, in P. R. Brass (ed.) *Routledge Handbook of south Asian Politics: India, Pakistan, Bangladesh, Sri Lanka and Nepal*, London and New York: Routledge: 321-336 for an explanation of the idea of people moving from ‘smaller’ places to ‘bigger’ places in pursuit of economic and political gains (*Lakshmi*, a popular pantheon of wealth, honour and good fortunes) while the ‘once born’ or ‘impure’ ones being condemned to strive in their traditional marginal spaces experiencing relative deprivations.

Re-conceptualizing Adivasis

The concepts of “tribe” and “caste” in India have been recurrently but heatedly debated in social sciences. There is a consensus that originally flexible and fluid social formations have been “essentialised” into either “caste” or “tribe” categories.¹⁰⁵ However, a continuum exists, along which groups can be located according to their specific caste or tribal features.¹⁰⁶ Thus, it is apparent that the concept of “tribe,” must necessarily be discussed in relation to “caste.” Considering the more recent, convincing and creative studies done among Adivasi societies, attempts have been made here and elsewhere to redefine Adivasi social formations as state-escaping and challenging peoples.¹⁰⁷ Before presenting a short summary of such innovative reconceptualization of Adivasis, here are 10 reasons why it is necessary and significant to re-conceptualize Adivasis:

1. Although G.S. Ghurey discussed “tribe” in relation to “caste,” his definition of Adivasis as “backward Hindus,” does not serve any useful purpose since he did not sufficiently substantiate the derogatory term “backward,” nor did he provide convincing reasons for Adivasis’ presumed backwardness. Moreover, most of Ghurey’s works, although often cited by his contemporary nationalists, were mostly based on the writings of British Indian administrators and anthropologists than on fieldwork. Interestingly, Ghurey himself has hardly done any fieldwork among Adivasis about whom he wrote so convincingly¹⁰⁸
2. D.D. Kosambi, in his *An Introduction to Indian history*, stated that Adivasis were ethnic groups who stubbornly resisted to being a part of the caste-based Hindu social systems. However, Kosambi has not explicated the reason for their stubborn resistance to being drawn

¹⁰⁵ Deliege, R. (1985) *The Bhils of Western India*. Delhi: National Publishing House; Cohn, B. S. (1987) *An Anthropologist Among the Historians and Other Essays*. Delhi: Oxford University Press.

¹⁰⁶ Bailey, F.G. (1960) *Tribe, Caste and Nation: A study of political activity and political change in highland Orissa*, Manchester: Manchester University Press.

¹⁰⁷ Puthumattathil, A. (2014) *Colonialism and Racism Uninterrupted: Evidence from India’s Adivasi regions with special reference to the Hos of Kolhan*, A PhD dissertation submitted at the Department of Conflict and Development Studies, Faculty of Political and Social Sciences, University of Gent, Belgium, available on www.academia.edu.

¹⁰⁸ One of the most unscientific and racist ideas nurtured by a huge majority of Indian-middle-class has been that Adivasis are ‘backward Hindus’ who need to be ‘civilized’ and ‘developed’. This has till recently been expressed in most ‘tribal study’ documents as ‘mainstreaming tribals.’ This idea has been popularized by one of the so-called ‘upper’ caste, nationalist professor of sociology G.S. Ghurey during 1940s and 1950s. This person, being an ‘upper’ caste who would be ‘polluted’ if he entered into a Dalit or Adivasi hamlet, had based all his arguments as a ‘sociologist’ on British colonial records and has hardly done any fieldwork [Guha, R. (1996) ‘Savaging the Civilized: Verrier Elwin and the Tribal Question in late Colonial India,’ *Economic and Political Weekly* 31(35/37), 2375-89]. Similarly, all those ‘social scientists,’ who uncritically upheld and followed Ghurey’s misleading argument, have proposed and promoted the popular victim-blaming theories that stereotyped India’s most economically and politically impoverished and marginalized social formations to be ‘backward.’ Whereas, several more recent field-based, credible and reliable studies show that rural Adivasi societies have been more egalitarian, gender balanced, and democratic. They are nature, freedom, and peace loving and hence they are more resilient and sustainable. Mahasweta Devi, one of the most renowned writer and social activist among Adivasis, has termed Adivasis as “the most civilized people” to whom Indian forests, rivers and mountains owe their survival’ (*The Hindu* October 2, 2012). Also see Mrinal Miri’s “Need to cultivate respect for tribal religions” (*Hindustan Times* January 19, 2015).

themselves into caste Hindu fold.¹⁰⁹

3. K.S Singh, one of the most acclaimed champions of “Tribal Studies,” has said, “The treatment of history or prehistory in tribal monographs remained, by and large, an exercise in speculation ... Historians have compiled accounts of Indian tribes both ancient and modern [but] ... it is often stated that the data-base for the historical study of such non-literate societies is limited”.¹¹⁰
4. According to Ratnagar, “Tribal social organization pre-dates stratified class society. Tribes are characterized not by this or that race, habitat or religious practice, but (in my understanding) by the bonding fabric of kinship and joint ownership of the natural resources from which they make their living.”¹¹¹
5. S. Kela has argued, “The history of Adivasi societies – *their absorption into and their distance from a caste based agrarian order at different times in the past* – forms a crucial element of South Asian History”.¹¹²
6. Ramdayal Munda, during the inaugural address of a three-day seminar on *Spirituality of Primal Religions* organized at Mangalore in 2009, said, “Adivasis have been wrongly categorized as Hindus for administrative convenience. A study of their practices will help in restoring self-respect to them... Adivasis are followers of Adi-Dharam not Hinduism...” He further said, “Despite the reluctance, the Adivasis were accommodated within Hinduism with the ulterior motive of forming a formidable political grouping in pursuit of cultural nationalism... An academic study into the practices of over 500 Adivasi communities would also help in restoring the self-respect of the Adivasis, who had always occupied an amorphous position, somewhere on the fringes of organized religions. Such studies will help Adivasis to notice that they are the same people. This will have powerful political ramifications that can lead the emancipation of the community... Dalits too should be part of this social, political and cultural grouping, since their cultural practices too bore close resemblance to Adivasi traditions.”¹¹³
7. A more interesting and enlightening insight, about how Adivasis residing in remote rural areas significantly distinguish themselves from caste-Hindus, is confirmed by 75 years old Niranjana Mahawar’s testimony. After having lived more than half a century with Adivasis and have observed their religio-cultural practices very closely in Bastar district of Chattisgarh, he says, “Tribals don't believe in *chatur-varna* [the fourfold caste system] that is the basis of Hindu society. They lived with their native tradition, and for over five thousand years refused to get dominated by Hindus. Hence, they are not Hindus.”¹¹⁴

¹⁰⁹ Kosambi, D.D. (2009) [1956] *An Introduction to the Study of Indian History*, Bombay: Popular Book Depot.

¹¹⁰ Singh, K.S. (1985) *Tribal Society in India*, New Delhi: Manohar: p. 12.

¹¹¹ Ratnagar, S. (2003) ‘Our Tribal Past’, *Social Scientist* 31(1/2): 17-36: p. 17.

¹¹² Kela, S. (2006) ‘Adivasi and peasant: Reflections on Indian social history’, *Journal of Peasant Studies* 33(3): 502-525: p. 502 (emphasis added).

¹¹³ ‘Adivasis are not Hindus: Munda,’ *The Hindu*, Feb 12, 2010.

¹¹⁴ Mahawar, N. (2012), ‘I have a problem with the makeover of tribal culture’ *The Hindu*, 24 October.

8. Surajit Kumar Saha in an article titled *The Historical Premises of India's Tribal Problem* (1986) argued that Adivasi social formations were those that rejected “the unequal processes of Hindu incorporation... both autochthonous and successive waves of immigrants fleeing Hinduised areas and totally indigenized in mountains and jungle fastness by the time state control in northern India passed into the hands of Muslims, evolved over centuries, languages and forms of social organization which are of a totally different order than those which emerged in the rest of India under Hindu influence.”¹¹⁵ Hence, according to him, a “historically determined schism which provides the basis of differentiating between a pan-Indian mainstream of caste society and its peripheral tribal societies,”¹¹⁶ although this disjuncture had not explicitly been articulated till the 1920s.¹¹⁷
9. Nandini Sundar, who has done extensive fieldwork and research on Adivasi societies in predominantly Adivasi regions in central eastern states of India has said in one of her recent articles titled *NDA pursuing anti-advasi agenda in the name of countering Maoists*, “Adivasi communities are ‘peoples’ and not ‘backward Hindus’ — with distinctive languages spoken by millions and distinctive faiths. It is precisely because of this that the Fifth Schedule of the Constitution mandates the governor to defend their laws and customs, including control over land and resources. If the governor is reduced to a mere political appointee, this is a direct attack on the separation of powers envisioned in the Fifth Schedule.”¹¹⁸
10. According to Cyprian Bates, “In the case of the so-called ‘advasis,’ a description of who they were and where they came from ought not to begin by plucking them as specimens from the colonial era, but by examining their resistance to colonialism, and the previous history of the rise and fall of tribal kingdoms in a period when they were much more largely masters of their own fate.”¹¹⁹

Adivasis as State-Avoiding and Challenging People

One of the most intriguing aspects of Adivasi social formations has been their obscurity throughout historiography prior to the British-led Indian colonialism. This obscurity and the above cited ten reasons call for a more creative, fresh and realistic approach to Adivasi history based on their life-styles, sociocultural values and alternative structural and cultural orientations during the pre-British Indian colonial period. In order to do this and to overcome the deficiency in Tribal Studies, K.S. Singh had hinted at the need to combine anthropology and history.¹²⁰

¹¹⁵ Saha, S.K. (1986) *The Historical premise of India's Tribal Problem*, op. cited: p. 274.

¹¹⁶ *Ibid.*: p. 286

¹¹⁷ Rycroft, D. & S. Dasgupta (2011) *The Politics of Belonging in India: Becoming Adivasi*, London and New York: Routledge.

¹¹⁸ *Hindustan Times* September 05, 2014.

¹¹⁹ Bates, C. (1995) 'Race, Caste and Tribe in Central India: The Early Origins of Indian Anthropometry', *Edinburgh Papers in South Asian Studies* Number – 3: 1-35: p. 31.

¹²⁰ Singh, K.S. (1985) *Tribal Society in India*, New Delhi: Manohar.

One of the most appealing and creative works that has combined anthropology, history and other sub-disciplines, such as agrarian history, in order to better understand hills people who are mobile, practicing slash-and-burn/ shifting cultivation, nomads, pastoralists, hunter-gatherers, gypsies, vagrants, itinerants, runaway slaves, and serfs, is James C. Scott's *The art of Being not Governed* (2009).¹²¹ Scott has convincingly and eloquently shown that hills people are those who deliberately avoided the ancient states that came to exist by "extracting taxes and manpower for projects – military, architectural, religious, cultural – that benefited the rulers and associated elites"¹²² Scott's conceptualization of hills people allows for a more reasonable understanding of Adivasis as those who deliberately avoided the ancient oppressive (Indian) statecraft – Political Brahmanism/ Manus system – to take refuge in distant forested and hilly terrains of Indian subcontinent. There, they gradually evolved/ developed into alternate social formations that contradict the rigidly stratified, oppressive and exploitative patterns of social relationships, structures and systems of the plain's caste-based civilizations.

Scott showed that the hills people sought to deliberately avoid the earliest and perennial state-projects of tax and sedentarisation.¹²³ Shifting cultivation practices and other such flexible coping practices, according to Scott, were not shaped by geographical/ ecological adaptations, but were results of deliberate choices by peoples who roamed about state-based oppressive civilizations of the plains. There are succinct descriptions of the Mundari speaking Kolarians' oral traditions that narrated their long wanderings much before they came to settle in regions where they are presently located.¹²⁴ Similarly, descriptions of shifting cultivation practices and constant movements of Dhurwa (Gond) Adivasis of South Bastar have recently been documented.¹²⁵ Discussion about powerful yet more flexibly organized 'wild' Adivasi kingdoms of the Bhils, Gonds and Dangis also have been documented.¹²⁶ The site of 'wilderness' was 'jungle' which meant not only forest and mountain, but any regions beyond the locus of state control, which gradually established alliance by demanding taxes and paying 'salaries' to 'jungle' chiefs.¹²⁷ These descriptions of the 'wild' and the 'settled spheres' resonate rather well

¹²¹ Scott, J.C. (2009) *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia*, New Haven and London: Yale University Press.

¹²² Ibid.: p. 238.

¹²³ Scott, J.C. (1998) 'The State and People Who Move Around: How the valleys make the hills in Southeast Asia' an edited version of IIAS Annual Lecture at the University of Utrecht on December 14: p.1. 'Tribalism can be viewed as a reaction to the formation of a complex political structure rather than a necessary preliminary stage in evolution' [Morton Fried 1968, quoted in Sinha (1982) 'Rethinking about Tribes and Indian Civilization', in B. Chaudhuri (ed.) *Tribal Development in India: Problems and Prospects*, Delhi: Inter-India Publications: p. 9]. "In Southeast Asia, the categories of 'tribal' and 'civilized' each implies and defines the other. ... 'Tribe' exist only in the context of state system of social relations which includes them; state exists by coming in terms with tribes" (Ibid.).

¹²⁴ Areeparampil, M. (2002) *Struggle for Swaraj, A History of Adivasi Movements in Jharkhand (from the earliest times to the present day)*, Chaibasa: Tribal Research and Training Centre.

¹²⁵ Sundar, N. (2007) *The Subalterns and the sovereigns: an Anthropological History of Bastar (1854-2006)*, New Delhi: Oxford University Press.

¹²⁶ Skaria, A. (1999) *Hybrid histories: forests, frontiers and wildness in western India*, New York: Oxford University Press; Kela, S. (2012) *A rogue and peasant slave: Adivasi resistance, 1800-2000*, New Delhi: Navayana.

¹²⁷ Skaria, S. (1999) *Hybrid histories: forests, frontiers and wildness in western India*, op. cited.

with Scott's (2009) conceptualizations of hills people and the state based plain's civilizations.

Scott has also broadly charted out four eras in the history of such state-avoiding / fleeing peoples:

1. a stateless era;
2. an era of small-scale states encircled by vast and easily reached stateless peripheries;
3. a period in which such peripheries are shrunken and beleaguered by the expansion of state power; and
4. an era in which virtually the entire globe is 'administered space' and the periphery is not much more than folkloric remnants (p. 324).

Thus, Scott concludes that ultimately these state-avoiding peoples would be engulfed and *eventually absorbed into respective nation-states*. "This is the history of deliberate and reactive statelessness, this is a history of those who got away; and state-making cannot be understood apart from it."¹²⁸ Ruthless absorption of Adivasis into the so-called "mainstream" society in India was cautioned, debated and alternatives were suggested: isolation, integration (under the principles of Nehruvian *panch-sheel*) and assimilation. However, despite all cautions, and rhetoric of implementing alternate approaches, what have actually and eventually been occurring was complex processes of unequal incorporation and social exclusion in multiple forms of *sanskritisaiton* or Hinduization, western/modernization that eventually lead to detribalization (tactfully packaged as "development" under the hegemony and patronage of political Brahmanism), however, amidst multiple and varied forms and levels of dissent and resistance that have naturally, and often deliberately, been undermined, pacified and suppressed.

Processes of Unequal Incorporation and Social Exclusion

Looking at political Brahmanism as the overarching ideological backbone of India's (home-grown) colonialism and racism as process and praxis, and Adivasi-Moolvasis as its simultaneous by product and antidote provides a very interesting and important analytical frame to better understand the complex process of state formation that has been absorbing (co-opting) the descending and resisting hills people through processes of *sanskritisaiton*, and eventual detribalization. Kosambi coined the terms "feudalism from above and below" to explain such processes of *sanskritisaion*. However, what Kosambi did not delve in detail was the role of political brahmanism and its applications in *sanskritising* or detribalising descending Adivasi societies. These processes might well be explained using concepts of unequal incorporation and social exclusion (UISE) whereby those few economically better-off individuals in Adivasi societies differentiate themselves socioeconomically from the rest of their co-villagers who have otherwise been sharing a common history and experiences of in-group solidarity against exploitation and oppression by caste Hindus from the plains. Consequently, these differentiating individuals gradually come to be incorporated into a higher rank whilst the disadvantaged majority co-villagers naturally were/ are rendered impoverished.

¹²⁸ Scott, J.C. (1998) 'The State and People Who Move Around,' op. cited: p. x.

Simultaneously, this impoverished and aggrieved majority would withdraw/ retreat themselves forming their own newer in-group solidarity groups. Moreover, during their interactions with the differentiating “upper” co-villagers, the “lowered” employ what is called, “the weapons of the weak.”¹²⁹ This further completes the processes of unequal incorporation and social exclusion.¹³⁰ These processes turns all predominantly Adivasi pockets in India into vicious circles or systems of colonialism and racism as process and praxis that has historically been operationalised. These processes resemble that of *sanskritisaion*, the proposed model of social change in India.¹³¹ Applying the Sartrean framework to understand these processes, it can be said that a colonial system indoctrinates and reproduces itself. Sartre explained the process in these words,

A colonial system indoctrinates individualistic and liberal codes in order to ruin the frameworks and the development of the colonized community, but maintains kinglets who derive their power solely from the system and who govern on its behalf. In a word, it *fabricates* ‘natives’ by a double movement which separates them from their archaic community by giving them or maintaining in them, the solitude of liberal individualism, a mentality whose archaism can only be perpetuated in relation to the archaism of the society. *It creates masses but prevents them from becoming a conscious proletariat by mystifying them with the caricature of their own ideology.*¹³²

The mystifying ideology in India has been political Brahmanism. Although it necessarily engenders resistance and descent, the ambivalence emerging from this violent insidious (colonial and racist) process and praxes mystifies the entire process to keep up the systemic self-reproduction that completes the normalised vicious cycle of colonialism and racism to continue.

Descent, Resistance, Ambivalence and Reproduction

In this system, those who socioeconomically differentiate themselves would gradually adopt the ideology and practices akin to those who consider themselves “upper” caste/class while those who dissent and resist this process using the weapons of the weak would try to revive their own

¹²⁹ James Scott has coined the phrase ‘weapons of the week’ to show that there exist myriad and incomprehensible ways of everyday resistance by poorer members of a social group, who are dominated by the rich among them, while the reasons for open revolts by the former are so rare. He argues that in such situations, conformity on the part of the poor is calculated, not unthinking; beneath the surface of symbolic and ritual compliance by the poor there is an *undercurrent of ideological resistance*, just as beneath the surface peace there is continuous material resistance. He further shows that as a part of such resistance the poor cling to a disappearing way of life; although they are fighting a losing battle, their intention is to sustain cultural dignity and status as full members of the community. However, what is at stake in such resistance is the defeat of the purpose intended by the poor, and projected by the rich as their will to improve the poor while drastic bias in distribution, and disproportionate appropriation of government funds continue. See Scott, J.C. (2008) *Weapons of the weak: Everyday forms of peasant resistance*, London: Yale University Press.

¹³⁰ “In earlier stages the Adivasis have tried to emulate the culture of the *dikus*, be it either along the *sanskritisation* path or the rank path. But none of these efforts have been able to raise the image of the Adivasis. Nor have the welfare efforts of the government any more successful to raise this image in the way of ‘modernization’” [Ghosh, A. & B. Sengupta (1982) ‘The Nationality Question in Jharkhand,’ in Sengupta, N. (ed.) *Fourth World Dynamics: Jharkhand*, Delhi: Authors Guild Publication: p. 252].

¹³¹ ‘The state controls succession to high offices and provides avenue for upward mobility to a few.’ See Thapar, R. (1999): *From Lineage to State: From Lineage to State: Social Formations of the Mid-First Millennium BC*, New Delhi: Oxford University Press.

¹³² Sartre, J.P. [1964] (2005) *Colonialism and Neo-colonialism*, op. cited: p. 16 (the emphasis original, the second added).

traditional alternate socio-religio-cultural belief systems and practices (alternate imaginations). They make themselves comfortable and secure within their own in-groups of the impoverished. This is also how numerous castes, sects and tribes have historically evolved in India. However, the violence (historical or inter-generational trauma associated with unequal incorporation and social exclusion) involved in these processes have largely undermined/ unexamined by social scientists. Consequently, the *ambivalence of violence* that floats around unconsciously controls/ orients individually and collectively to a normalised reproduction of the system.¹³³

Hence, the revolutionary potential – descent, resistance (expressed mostly in forms of weapons of the weak and therefore undermined) – continues to remain defeated as half-baked revolutions as most leaders of such social movements in India have often been ambivalent and hence would eventually be co-opted into the system or physically eliminated. Moreover, the free-floating hostility or the ambivalence of violence has often been tapped by cunning politicians to advance their vested interests while the masses who follow them continue to remain impoverished. In this regard, it would be interesting to explore how various autonomy movements in India have been co-opted and pacified in such a way that a very select few would benefit from these movements.

II

Impoverishment of Adivasis and Resistance: A Brief History

In one of the constituent Assembly debates, Jaipal Sing, the most powerful leader of Adivasis in central eastern India, said, "... It is the newcomers – most of you here are intruders as far as I am concerned – it is the newcomers who have driven away my people from the Indus Valley to the jungle fastness....The whole history of my people is one of continuous exploitation and dispossession by the non-aboriginals of India punctuated by rebellions and disorder" (*Constituent Assembly Debates*, Volume I: 143-4).¹³⁴ Leaving aside the contentious question: if Adivasis had constituted the Indus Valley Civilization, the rest of what Jaipal Sing has stated about their being continuously exploited and dispossessed is true even today with the exception of the 'creamy layer' of Adivasi society that have disproportionately been benefiting from the 'inclusive-exclusive governmentality'¹³⁵ of the state in India and for whom the state remains 'mai-baap' (mother and father who would take care of everything)¹³⁶ and hence, that should not

¹³³ Ambivalence of violence is also conceptualized as symbolic violence which reproduces violence in individual and collective relationships which eventually solidifies and forms violent social structures and systems of colonialism and racism.

¹³⁴ Quoted in Guha, R. (2007), "Adivasi, Naxalites, and the Indian Democracy," *Economic and Political Weekly*, August 11: p. 3.

¹³⁵ See Ghosh (2006) for his critique of the Indian state's affirmative action policies for SCs and STs which benefits only the economically powerful in Adivasi society and by which the state absorbs and pacifies the assertive/leaders among them while the leaving the most deprived to their own constrained agencies. Ghosh, K. (2006) 'Between Global Flows and Local Dams: Indigenosity, Locality, and the Transnational Sphere in Jharkhand', *India Current Anthropology* 21(4): 501–534.

¹³⁶ Corbridge, S., M. Srivastava & G. Williams (2005) *Seeing the State: Governance and Governmentality in India*, Cambridge: University of Cambridge.

be critiqued for the structural and cultural violence it embodies but naively and comfortably to be assimilated/ accommodated into the colonial civic order,¹³⁷ often referred to as “mainstream.”

Historically, Adivasis’ interactions with the caste-ridden plain’s population, their leaders’ co-option into the system or conversion of Adivasi chiefs by way of indoctrinating them with brahmanic ideology and the graded stratification of more egalitarian Adivasi social formations, consequent conflict, resistance, defeat and retreat, as Mullick (1993) has shown, constitutes the history of Adivasis in India.¹³⁸ The fact that the most impoverished Adivasi societies today have been found inhabiting in mineral-rich, forested, hilly, and inaccessible regions of the country also bears witness to this processes of Adivasis’ conflict, defeat and consequent retreat into more inaccessible terrains. These processes have been conflict-ridden since they dispossess Adivasis of their homelands and territory which they established initially clearing forests to make these places inhabitable. However, more powerful intruders conquer or co-opt Adivasi chieftains who would get attracted to the proponents of brahmanic ideology from the plains. Gradually they begin to introduce the statecraft driven by political Brahmanism instead of Adivasi system based on consensus decision making and egalitarianism. Naturally, Adivasis who resist/ resent these processes of structural transformation would withdraw farther inwards to inaccessible forests and hills. This must have the overarching pattern of state-expansion (expansion of state-centric caste-Hindu societies) into predominantly Adivasi regions in India.¹³⁹

Conversely, this might well have been the historical reason why the entire Chotanagpur plateau, which is hilly and forested, came to be the ultimate homelands of Adivasis in India, who have been resisting, withdrawing and avoiding the dehumanizing and dispossessing processes of state formation animated by the Manu-system or political Brahmanism. While this remains a significant insight that has mostly been neglected by earlier “tribal studies,” the rest of this section briefly sketches the conflict-ridden and impoverishing historical processes of state-penetration in predominantly Adivasi regions such as Chotanagpur.

¹³⁷ The term ‘colonial civic order’ signifies the continuity of colonialism from ancient times till date. It also implies that no colonizer imposes colonial structures (or system of rule) unilaterally, but it involves, as do most other political systems, constant negotiation of power relationships and identities. Such negotiations often came across via direct physical violence, but during ancient times, they occurred more routinely via everyday religio-cultural ideologies and practices and interactions. In ‘modern’ times, they occur across desks and tables, dominant discourses via newspapers and other mass communication media, movies, and sports, etc. [Thompson, E.F. (2000) *Colonial Citizens: Republican rights, paternal privilege, and gender in French Syria and Lebanon*, New York: Columbia University Press].

¹³⁸ Mullick, S.B. (1993) ‘The Jharkhand Movement: A Historical Analysis’, in M. Miri (ed.) *Continuity and Change in Tribal Society*, Shimla: Indian Institute of Advanced Study: 347-362.

¹³⁹ In the ‘West’ initially war criminals were executed; later they were allowed to live, (a concession given by the sovereigns), as slaves/ bonded men and women [Žižek, S. (2008) *In Defence of Lost Causes* London-New York: Verso]. In South Asia, however, conquest and state expansion took place mostly via assimilative conversion/ transformation animated by political Brahmanism. See Saha (1986) *The Historical Premise of India’s Tribal Problem*; Saha, S.K. (1994) ‘The Brahmanic social Order and Tribal Society’, in Bonner, A., K. Ilaiah, S.K. Saha, A.A. Engineer & G. Heuze (co-authors) *Democracy in India: A Hollow Shell*, Washington D.C.: The American University Press: 65-80; Pati, B. (2003) *Identity, Hegemony, Resistance: Conversions in Orissa, 1800-2000*, New Delhi: three Essays Collective.

Processes and Praxes of Indian Colonialism and racism in Chotanagpur

The Mundari speaking Kolarians are said to be the original inhabitants of Jharkhand region; they developed dry *jhum* (slash and burn) cultivation techniques with rice fields and iron tools to be the first settler-cultivators of the place.¹⁴⁰ Villages were established with recognizable boundaries, guarded by deities dwelling in *sarnas* (sacred groves). Leading men, who first cleared forests, became both the temporal and spiritual heads of a village community who mostly belonged to the same *marang killi* (leading lineage). Other outsiders were affinal relatives, and craftsmen (service castes, i.e. Moolvasis) such as blacksmiths, weavers, cowherds who were later accommodated into these original villages. In course of time, the 'heads of patrilineal clans with their office becoming hereditary, grew powerful; gifts, inevitably, became regulated as dues. All of these contributed to the encouragement of a hierarchal arrangement of structures of power based on access to land and its produce, which ran counter to the original lineage-based egalitarian, in-group solidarity based system of local self-governance.¹⁴¹ These processes of state-formation hold close similarities to the later-Vedic transformations that Romila Thapar has recently discussed.

This mutation was endemic to the evident changes in the post Gupta period. Where trade flourished, the resources of the urban centres and the trade routes buoyed up the system... Internal commercialized trade requires the ballast of agrarian settlement and *where lineage-based societies could be converted into peasant economies...* Earlier networks of exchange had permitted an easier co-existence with lineage-based societies. Their resources, generally raw materials such as elephants, timber and gemstones could, as items of exchange, be easily tapped by traders through barter and direct exchange without disturbing the social structure to any appreciable degree. On thither hand, because of the requirement of land and labour, state systems more heavily dependent on a peasant economy had to absorb these societies and *convert them into peasant economies* in order to extract the benefits.¹⁴²

While this explains how initial processes of settled agriculture and how the accompanying state formation went on, what facilitated this transformations of more flexible and egalitarian Adivasi (sacral) polities¹⁴³ into a hierarchically graded state systems was political Brahmanism brought in by the “men of pen, fortunes and prowess,”¹⁴⁴ who had already established their networks here with powerful Adivasi chieftains who were attracted probably by the prestige and glory that came from their pursuit of riches and honour.¹⁴⁵ A Hindu mythology captures processes of how the son of a Munda chieftain in Chutia Nagpur, near Ranchi, was gradually converted and co-

¹⁴⁰ Thapar, R. & M.H. Siddiqi (1979) 'Chota Nagpur: The Pre-colonial and Colonial Situation', in Munda, R.D. & S.B. Mullick (eds.) (2003) *The Jharkhand Movement. Indigenous Peoples' Struggle for Autonomy in India*, Copenhagen: Transaction Publishers: 31-72; Areeparampil (2002) *Struggle for Swaraj*, op. cited.

¹⁴¹ Hill, J. (2008) *Contexts, Ideologies and Practices of Small-scale Irrigation Development in East India*, A PhD thesis, School of Development Studies, University of East Anglia.

¹⁴² Thapar, R. (2014) *The past as present: forging contemporary identities through history*, New Delhi: ALEPH Book Company, p. 97.

¹⁴³ Shah, A. (2010) *In the Shadows of the State: Indigenous Politics, Environmentalism, and Insurgency in Jharkhand, India*, Durham and London: Duke University Press.

¹⁴⁴ Bayley, S. (2000) *Caste, society and politics in India from the eighteenth century to the modern age* Cambridge: Cambridge University Press.

¹⁴⁵ Rudolph L.I. & S.H. Rudolph (1987a) *In pursuit of Lakshmi: the political economy of the Indian state*, Chicago: University of Chicago press.

opted into a *Nagavansi* (of the genealogy of a serpent god) maharaja of Chotanagpur.¹⁴⁶ There exists a succinct description of how the long transformational processes of a more indigenous/egalitarian minded Durjan Sal, the Maharaja of Chotanagpur took place, and how such transformations adversely affected Adivasis who had trusted him.¹⁴⁷

It became clear that from two sides their [adivasis'] traditional society was being undermined: custom was being undermined by contract, a barter economy by a money economy; they had to yet learn to handle, divisions of land determined by traditional custom were replaced by a landlord-tenant relationship and tribal solidarity was being destroyed from within by Hinduisation of chiefs, and from without by the pressure of the British raj.¹⁴⁸

The rapid socioeconomic and political transformations induced by intruders from the plains and the consequent Adivasi unrest in Chotanagpur have been well documented.¹⁴⁹ Processes of state-expansion took place via conversion of tribal chieftains in central eastern India.¹⁵⁰ Similarly, Wills (1919), Blunt (1969), Fox (1971), Singh (1971), Banerjee (1989) and Thapar (1999) has also discussed similar models of state formation theories in north and central eastern India.¹⁵¹ These are clear evidences to show the influence of political Brahmanism that animated the processes of state formation in more fertile/ plain regions of early Chotanagpur; however, some factions of Kolarians such as Hos, Mundas, Santals, Birhors and a few others have consistently resisted or avoided the influence of political Brahmanism while the Bhumijis, who were also Kolarians, seemed to have embraced it.¹⁵²

These transformations of Adivasi social formations, facilitated by political Brahmanism, are similar to that of *sanskritisation*: the chiefly families aspiring to become Kshatriyas [warrior castes] while such transformations happen over a long period of time, the ordinary people would gradually be relegated to the status of *sudras* [toiling serfs] who would provide labour.¹⁵³ Thus, when the power-structures of more flexibly organized social organisation of the Kolarian (Mundari speakers) began to undergo tangible changes in Ranchi region, the Hos who were more

¹⁴⁶ Dalton, E.T. (1872) *Descriptive Ethnology of Bengal*, Calcutta: Council of Asiatic Society of Bengal; Dalton, E.T. (1973) *Tribal History of Eastern India*, Delhi: Cosmo Publications; Roy, S.C. (1970) *The Mundas and their Country*, Bombay: Asia Publishing House.

¹⁴⁷ Saha, S.K. (1986) 'The Historical Premise of India's Tribal Problem', *Journal of Contemporary Asia*, 16(3): 274-319.

¹⁴⁸ Jha, J.C. (1964) *The Kol Insurrection of Chotanagpur*, op. cited: p. 240

¹⁴⁹ Singh, K.S. (1966) *Dust-Storm and the Hanging Mist: A study of Birsa Munda and his movement*, Calcutta: Furma K.L.M.

¹⁵⁰ Sinha, S.K. (1962) 'State formation and Rajput Myth in Tribal Central India', *Man in India* 42(1): 35-80.

¹⁵¹ Wills, C.U. (1919) 'The Territorial System of the Rajput Kingdoms of Mediaeval Chhattisgarh', *Journal of the Royal Asiatic Society of Bengal* 15: 197-262; Blunt, E.A.H. (1996) *The Caste System of Northern India: With special reference to the United Provinces of Agra and Oudh*, Delhi: S. Chand & Co; Fox, R.G. (1971) *Kin, Clan, Raja, and Rule: State hinterland Relations in Preindustrial India*, University of California press, Berkeley and Los Angeles; Singh, K.S. (1971) 'State formation in Tribal Society: Some preliminary observations', *Journal of Indian anthropological society* 6(1971) 161-181; Banerjee, M. (1989) *An Historical Outline of Pre-British Chotanagpur (from latent times to 1765)*, Ranchi: Educational Publications; Thapar, R. (1999): *From Lineage to State: From Lineage to State: Social Formations of the Mid-First Millennium BC*, op. cited.

¹⁵² Sinha, S.K. (1962) 'State formation and Rajput Myth in Tribal Central India', op. cited; Sinha, S.K. (1965) 'Tribe caste and peasant continua', *Man in India* 45(1): 57-83.

¹⁵³ Thapar, R. (2013). *The Past Before Us*, Harvard: Harvard University Press.

freedom-loving seemed to have split off and moved to more hilly and dense forests of Kolhan.¹⁵⁴ There again, the Ho elites would later be drawn into continued interactions with and assimilation into mainstream.

More interestingly, while the British-led Indians invaded the inaccessible terrains of Chotanagpur, what the British Indian colonial administrators and ethnologists witnessed was a continuum of plains-based civilizations, enthused by the pursuit of Lakshmi, on one end of the continuum, and the hills-based more radically freedom-seeking fractions among Adivasi social-formations, who sought to keep themselves away, by retreating themselves from the enslaving influence of political Brahmanism on the other end. Analysing both *sanskritisation* and *de-sanskritisation* processes among Mundari speaking Kolarians, Verardo (2003) has shown that while the wealthier Mundas emulated some of the so-called 'higher' caste behaviours resulting in the formation of new 'castes' in the course of Hindu reformist movements, there was "simultaneous revival of Adivasi [Mundari] culture and adherence to ancestral teachings and practices. By reviving the ancestral notions of wilderness and mastery over forests, those who refuse to 'sanskritise' remain faithful to the primordial link between land, spirit and people as criteria for social status. To them it is territorial precedence and the mediation with local spirits, rather than Brahmanical criteria of purity and pollution, [and pursuit and accumulation of riches] that legitimize claims to higher social ranking" (Ibid.: 3).¹⁵⁵

Although Adivasis, who radically adhered to their own alternative imaginations,¹⁵⁶ posed stiff resistance against the compelling influence of political Brahmanism, on being defeated and subjugated by superior powers, they keep withdrawing/ retreating into farther interior/ inaccessible terrains even at the cost of leaving their fertile lands and homes.¹⁵⁷ Such resistance, defeat, and retreat/ escape have brought and still bring them cumulative material and ideological deprivations.¹⁵⁸

¹⁵⁴ Roy, S.C. (1970) *Munda's and their Country*, op. cited.

¹⁵⁵ Verardo, B. (2003) (unpublished) *Rebels and Devotees of Jharkhand: Social, Religious and Political Transformations among the Adivasis of Norther India*, Dissertation submitted to the Department of anthropology, London School of Economics and Political Science, University of London: p. 3.

¹⁵⁶ Chaudhuri, B.B. (2009) 'Revaluation of Tradition in the Ideology of the Radical Adivasi Resistance in Colonial Eastern India 1855 -1932--Part I', *Indian Historical Review* 36(12): 273-924; Pati, B. (2011) 'Struggle for Survival: Tribes in Colonial Orissa', in B. Pati (ed.) *Adivasis in Colonial India: Survival, Resistance and Negotiation*, New Delhi: Orient BlackSwan; Pati, B. (2013) 'The Diversities of Tribal Resistance in Colonial Orissa, 1840s-1890s: Survival, Interrogation and Contests', *Economic and Political Weekly* 68(37): 49-58.

¹⁵⁷ For the most recent testimony of the Adivasis' determined rejection of caste-based discrimination and oppression; see [Mahawar's (2012) testimony, 'Tribals don't believe in *chatur-varna* [the fourfold caste system] that is the basis of Hindu society. They lived with their native tradition, and for over five thousand years refused to get dominated by Hindus. Hence, they are not Hindus.' p. 1]. He has made this statement after having observed Adivasi life and culture for the last fifty years in Bastar Chhattisgarh.

¹⁵⁸ Mullick, S.B. (1993) 'The Jharkhand Movement: A Historical Analysis', op. cited.; Mullick, S.B. (2004) 'Conflict and Resolution between Indigenous Peoples and the State of India', in A.L. Tamayo, E. R. Alcantara, M. Malanes, R. de Chavez & R. Sidchogan-Batani (eds.) *Reclaiming Balance: Indigenous Peoples, Conflict Resolution and Sustainable Development*, Philippines: Tebtebba Foundation: 153-172.

A Complex, Conflicting and Confusing Continuum

Certainly, the British initially had to face serious difficulties while trying to make sense of what was actually going on with their colonial subjects in these regions as it is difficult even today to make clear explanations.

The distinction between 'tribal' and Hindu India was never simple or static. But throughout north and central India and the Western Ghats [hills] were people only lightly touched by the major cultures and religions who lived in part by the skills of the pastoralists, the slash-and-burn farmer or the hunter and gatherer. Some of these people had chieftains who were designated rajas by outside potentates, though often the individual nomadic camp or hunting family was the key political unit and the state hardly existed as an entity.¹⁵⁹

Bayly's account is based on British-led Indian colonial records of late eighteenth and nineteenth centuries. However, the following account by Stuligross is based on fieldwork during more recent times.

These kingdoms were complete with Brahmin priests, constructed genealogies, and, frequently, conversion to Hinduism by kings and higher-ranking subjects. This conversion, however, was more political than religious, in an important sense. Jharkhandi varieties of Hinduism, consistent with Hindu practice elsewhere, developed in consonance with local myths, traditions and rituals. Hence, it is perfectly consistent for much of the Jharkhand 'Hindu' community to profess that they practice 'tribal culture'.¹⁶⁰

More interestingly, several British ethnologists and administrator anthropologists, Dalton (1872), Hunter (1886), Lyall (1907) and Russell (1969) among other, for instance, have indeed described these complex and bewildering socio-cultural processes of continuous coercion, conflict, imitation, acculturation and assimilation that had been taking place in a continuum during 1600-1900 in Chotanagpur and beyond.¹⁶¹ These are complex socio-economic and political processes of a natural, imitative acculturation that amounts to 'detrribalization.' British ethnologists had employed an interesting analogy of a 'melting pot' to describe this phenomenal situation. In other words, the 'aboriginal tribes' were progressively and gradually being assimilated or incorporated into caste-based societies. These transformative sociocultural and political processes that have been taking place, in which the hills people and people from the plains interacted, seemed to them like a melting pot.¹⁶² The following sentences explain similar processes differently.

Secondary primitivization, withdrawal, oscillation, and regional universalization and participation in the caste/peasant base of Indian civilization through the intervention of state formation. ... the pressure of the encroaching civilization not only pulls the hitherto isolated tribal groups towards integration with the caste/peasant system, they also generate processes of keeping some groups at a level of isolation from the

¹⁵⁹ Bayly, C.A. (1995) *Indian society and the making of the British Indian Empire, The New Cambridge History of India, Vol. II*, Cambridge: Cambridge University Press: p. 25.

¹⁶⁰ Stuligross, D. (2008) 'Resources, representation, and authority in Jharkhand, India', *Asia Pacific Viewpoint* 49(1): 83–97: p. 94.

¹⁶¹ Dalton, E.T. (1872) *Descriptive Ethnology of Bengal*, op. cited; Hunter, W.W. (1886) *The Imperial Gazetteer of India vol. VI*, London: Trubner & Co; Lyall, A.C. (1907) *Asiatic Studies: Religious and Social*, second series London: John Murray; Russell, R.V. (1969) [1916] *The Tribes and Castes of Central India*, volume 1-3, The Netherlands: Anthropological Publications.

¹⁶² Lyall (1907) *Asiatic Studies: Religious and Social*, op. cited: P. 27.

mainstream of peasant society.¹⁶³

The British hegemony, in their efforts to understand their colonial subjects, further enumerated and categorized these fluid and continuously interacting/ assimilating/ acculturating social formations into 'castes' and 'tribes.' However, this intervention of the British regime also gave some legal basis for Adivasis' consciousness and claims of their distinctive identity and assertions of basic human rights which have increasingly been violated by the post-independence state in India.

The 'sudra mode of incorporation' of the economically poorer sections of Adivasis,¹⁶⁴ unequal incorporation and exclusion, 'discriminatory integration'¹⁶⁵ or 'secondary primitivization'¹⁶⁶ clearly involve cultural, symbolic and structural violence although it renders itself normalized and self-reproductive by the Indian ideological statecraft (political Brahmanism, both the predecessor and successor of British-led Indian colonialism). This complex, conflicting and long-drawn processes continue to remain the main kernel of state-formation in predominantly Adivasi regions even today. The so-called 'LWE' among Adivasi/Moolvasis, who share similar historical experiences of exploitation and oppression, might well be explained as one of its many symptoms. The following section attempts to explicate the contradictory sociocultural values of both Adivasi and capitalist and so-called "modern" mainstream societies to propose the core Adivasi values, preserved by the most deprived sections, as both more humane, sustainable and an antidote to the destructive mainstream.

III

Indigenous peoples hold the key to the future survival of humanity¹⁶⁷

Capitalist mainstream assimilating Indigenous Adivasi values: we witness a strange situation wherein the Indian Govt liberally signs international treaties regarding indigenous peoples but when it comes to implementing them in the Indian context it denies Indigenous people's existence in India. The contradiction is further accentuated when it felicitates the Adivasi people on international indigenous festive days such as *Indigenous Peoples Day* on 9th August. Instead it is still hanging on to the concept of 'Scheduled Tribes' and providing some special constitutional, legal and welfare provisions most of which never reach Adivasi people who are relatively more marginalized.

However, when one takes a look deep into the life of the Adivasi People, especially the older generation who are the carriers of their age-old traditions, one is able to glean their humanizing values which stand in marked contrast to the de-humanizing values of modern capitalist society.

¹⁶³ Sinha, S.K. (1982) 'Rethinking about Tribes and Indian Civilization', in B. Chaudhuri (ed.) *Tribal Development in India: Problems and Prospects*, Delhi: Inter-India Publications: p. 8.

¹⁶⁴ Sahu, B.P. (1985) 'Ancient Orissa: The Dynamics of Internal Transformation of the Tribal Society', in proceedings of *Indian History Congress*, Annamalai Session: 148-160: p. 297.

¹⁶⁵ Saha, S.K. (1986) *The Historical Premise of India's Tribal Problem*, op. cited: 11-12, 16-17;

¹⁶⁶ *Ibid.*: p. 6.

¹⁶⁷ This section is adopted from one of Stan Swamy's unpublished notes on the same title (topic).

Here is an effort to line them up side-by-side so the irreconcilable contrasts become clearer.

Fundamental Differences between Adivasi and ‘Modern’ (Capitalist) Civilizations

| Area | Core Values of Indigenous Communities | Core Values of Modern Capitalist Society |
|---|---|--|
| Nature, Land, Environment (<i>Jal, Jangal, Jamin</i>) | <ol style="list-style-type: none"> 1. Living in harmony with Nature, - symbiotic relationship (living together in mutually beneficial relationships) 2. Custodial concept of land and other natural resources, 3. Land belongs to past, present and future generations – land is inalienable. 4. Land does not belong to the human community; rather human community belongs to the land. | <ol style="list-style-type: none"> 1. Dominating over land and cultivating it, 2. Conquer the nature, 3. Man is supposed to rule over land and other creatures. 4. Other creatures are for the service of man. 5. Nature has meaning insofar as it serves human ends. 6. Objectification – Nature is seen as property. 7. Exploitative relationship, 8. The value of territory & possession based on the idea of “survival of the strongest” and competition. There is a general suspicion of the outsiders who have to be kept out and guarded against. |
| Economy | <ol style="list-style-type: none"> 1. Cooperation - Sharing for common good, 2. Collectivism, 3. Communal ownership of land and other resources, 4. Subsistent economy, 5. Sustainable use of resources, 6. Socialist. | <ol style="list-style-type: none"> 1. Competition - Economics of self-interest, “survival of the fittest,” 2. Individualism, 3. Private property, 4. Consumerist, 5. Destructive use of resources – over exploitation, 6. Capitalist. |
| Politics | <ol style="list-style-type: none"> 1. Consensus way of government, - not by majority, 2. Democratic, - Participative, not representative. | <ol style="list-style-type: none"> 1. Legitimises politics of power – “might is right,” 2. Authoritarian, Bureaucratic. |
| Society | <ol style="list-style-type: none"> 1. Egalitarian, - Equality of men & women, - Dignity of manual labour, 2. Communitarian, - Individual is a member of the tribe, - Family is not the most important unit, but rather the tribe as a whole is. 3. Harmony within the community, 4. Hospitality. | <ol style="list-style-type: none"> 1. Stratified, - Hierarchical, - Patriarchal, - Certain works are considered low. 2. Individualistic, - Importance of family and individual, 3. Competition, rivalry. |

| | | |
|--------------------------------------|---|---|
| Culture, Religion, Philosophy | <p>1. Human culture is part of nature. - Culture is not seen as opposed to nature, but rather nature is celebrated, and the participation of the community in the life & rhythms of the nature.</p> <p>2. Naturalism in religion, - Eco-spirituality which affirms our common responsibility for the earth and the rest of creation.</p> <p>3. Philosophy of <i>rasa</i> (joy), - The value of celebration with songs stories & dances (<i>senge susun kajige during</i>). - Life is not just for labouring, it is for resting and enjoying oneself. - Too much hard work is bad and oppressive of creatures. - A person should only work as much as is necessary for “livelihood.” - Life is for celebration.</p> <p>4. People-oriented literature, music, & art - Group participation - Folkism</p> | <p>1. Culture is opposed to nature - Culture is conceived of as over & above nature, arising not out of necessity but the free will and intelligence of purely human agents</p> <p>2. Ritualism.</p> <p>3. Value of hard work, - Nothing can be achieved without effort & hard work; life is a serious business and people are respected insofar as they have achieved something which can be measured in terms of what they possess.</p> <p>4. Professional approach to literature, music, & art - Observation: a few perform, majority observe - Urbanism</p> |
|--------------------------------------|---|---|

Indigenous Values cannot merge or fuse with Capitalist Mainstream

The essence of the two value systems is not only different but also stands opposed to each other. Added to this is the fact that Adivasi culture is of the marginalised, or “subaltern” peoples whereas the Modern culture is of the ruling mainstream society. Again, recent history has brought in not only clear differentiation between the two cultures but also a certain denigration of the Adivasi culture by modern capitalist culture.

Some Exemplifications

An attempt is made here to exemplify as to how it is only from a position of strength that Adivasi Culture has been able to make certain clear inroads into the otherwise impenetrable Modernity Culture. These arguments have been advanced based on the strength of long years of experiences of defending human, democratic, civil rights of the weaker sections of society particularly the Adivasi and Dalit People of Jharkhand. Some of the salient and distinctive values of Adivasi communities have been taken for further discussion. The area of examination are local, regional, national and international situations and processes undertaken by Adivasi / Indigenous / Aboriginal / Tribal / Native / Indian Peoples, by whatever name they are known in whichever part of the world.

i) **The communitarian dimensions of Indigenous peoples have been accepted by nation states and international bodies after much resistance.** The so called “modern” capitalist society is highly individualistic in nature, giving prominence to individuals and their families, where the only way individuals can shine is through competition and rivalry. This stands clearly opposed to the Adivasi concept where the individual has his identity as a member of the tribe/ community and therefore the community stands eminent and egalitarianism among members is

cherished. The community, its opinion, its decisions, its judicial powers are valued by the Adivasi people, and Adivasi intellectuals & activists have always insisted that the community's opinion should be sought on all important matters not only in terms of consultation with it but also obtaining its consent.

In such a scenario, what can the Indigenous People do to assert their cherished desire to assert their right to self-determination? It calls for very determined efforts by committed leaders to undertake massive political mobilisation of their people at micro and macro levels to realize their dream of self-determination. There are some significant efforts and struggles taking place in different parts of the world. They can be identified at two spheres: **(a) in terms of political autonomy including forming their own government with a clear option for socialism such as in Bolivia under the leadership of President Evo Morales.** He led the *Movement Towards Socialism* to victory in the election, and together with the able support and solidarity of President Hugo Chavez of Venezuela and the veteran socialist leader President Fidel Castro of Cuba, is bravely paving new roads to realising a socialist order. They also lead a movement among Latin American countries of freeing themselves from the hegemony of the U.S. government and American companies.

(ii) in terms of asserting their right over natural resources 'not as just stake-holders but owners of what nature has endowed their land'. Whether it be the Zapatista Indigenous people in Chiapas in Mexico, or it be the Cordillero Indigenous People of northern Philippines, what comes out clearly is that the Indigenous / Adivasi people in different parts of the world are increasingly asserting their rights over the exploitation and the disposal of whatever minerals and other natural resources in the geographical areas of their habitation. The respective governments are forced to acknowledge these rights. In our Jharkhand itself, subsequent to the Supreme Court ruling in 2013 by which "the owner of the land is also the owner of sub-soil minerals" several Gram Sabhas have started to dig out coal in their village lands, take it to the market, and share the profits equitably among themselves. Now these types of initiatives need to include other minerals too.

Thus it is up to the Indigenous Adivasi peoples to united march forward in solidarity with all who work towards a more just, peaceful and harmonious and humane society to challenge and reform the neocolonial capitalist systems and structures. For Adivasis, as the Indigenous peoples of India, hold the key to a more egalitarian and democratic society as against the caste-ridden, graded inequality, in the exploitative and oppressive "mainstream."

*When all the trees have been cut down,
When all the animals have been hunted,
When all the waters are polluted,
When all the air is unsafe to breathe,
Only then will you discover you cannot eat money*

(An Indigenous Cree Prophecy)

Chapter – 7

General Conclusion and Recommendations

Conclusions

Our efforts to understand the reality of alleged Naxalite under-trials in Jharkhand have led us also to moderately explore several other related and significant issues such as insurgency, counter-insurgency, Adivasis' struggle to protect their human and constitutional rights, the legal system in India, including the everyday functioning of police force, judiciary, and the broader political and state systems in Jharkhand and beyond. Leaving aside, for a while, all that have been said about the system being corrupt and violently exploitative and oppressive, the field-based evidence in this report shows that a huge majority of alleged Naxalite under-trials in Jharkhand belong to Adivasi, Dalit and other "backward" caste social categories. The data on under-trials out on bail show that most of these arrests have been falsely foisted on them and often those arrested have been grassroots level activists who have been trying to defend their and their neighbours' constitutional rights. For example, most of the respondents were arrested for reasons of speaking out against injustice done to them or trying to unite themselves against exploitative elements in their villages and localities, which intend to deprive people of their entitlements and rights to land and common property resources in territories that have been constitutionally and legally deemed to be protected for the benefit of Adivasis.

Moreover, findings on detained under-trials further show that the criminal justice procedures have been manipulated and misused, contrary to their objectives, to ill-treat, torture and harass political prisoners incarcerated in Jharkhand's jails. Whereas according to the Nuremberg principle, it is evident that nobody can be considered culpable only because he or she belongs to a Maoist Party. Moreover, according to any legal principle, every person must be considered innocent until proven guilty, hence, each of the under-trial Maoist must be considered innocent until "the crime" he/she has been alleged to have committed is proved. Hence, the ruling elites, in their efforts to "wipe out" Maoism, grossly violates the criminal justice system which is meant to administer justice to all citizens of the country. Similarly, every section and subsection of this report has shown that the legal system, as a whole, administration of the criminal justice system, and the policies and projects of successive ruling regimes have failed to provide justice to the millions of historically exploited and marginalised sections of society. Moreover, politicians, the business, professional and administrative elites have been consistently violating the constitutional and important legal provisions to provide justice and equal rights to the impoverished millions. Consequently, the impoverished millions have been left to their own already constrained agency while their resources have progressively been appropriated in almost a similar manner as happens in primitive accumulation (and dispossession). When such unjust processes, in turn, are met with opposition from deprived Adivasis, the very legal system, meant to administer justice, has been misused to suppress any dissent and opposition to this exploitative and oppressive system that perpetuates such culpably unequal power relations.

Looking at these processes, most clearly visible in predominantly Adivasi regions, from a broader and historical perspective, these exploitative and oppressive forces work apparently in

three mutually supporting patterns: (1) progressive encroachment of land, forests, water-bodies, mineral and other common property resources by state supported neoliberal capitalist corporate groups in the name of “national development” which is a buzzword in India to mask the discursively naturalised processes of sanskritisation, socioeconomic differentiation (along the line of “upper” versus “lower” or “pure” versus “impure” leading to production and naturalisation of graded inequality among Adivasis) and consequent detribalisation animated by political Brahmanism or the Manu system that seeks to advance unrestricted competitive individual pursuit of riches, power and honour. This process has forcibly been accelerated in recent times by the activists of *sangh-parivar* (a familial name for several Hindu fundamentalist organisations); (2) the longest, most resilient and continued history of people’s resistance movements demanding self-determination and self-rule for Adivasis from all over ‘greater Jharkhand,’¹⁶⁸ which has been violently suppressed, divided, co-opted and pacified; (3) consequently, in recent times, especially since the liberal reform periods, i.e. from the 1990s, these areas have been characterised by increasing militarisation (deployment of the state’s repressive apparatus – the police and paramilitary forces) – to suppress people’s resistance and simultaneously advance industrial-scale extraction of natural and mineral resources to the perils of already impoverished Adivasi-Moolvasis and the environment; and (4) this, of course, has been accompanied by increasing misuse of almost all criminal (justice) procedure codes and an already crisis-ridden Indian legal system. This is evidenced by the magnitude of persecution, torture and harassment of impoverished Adivasi-Moolvasis and their sympathisers by foisting false cases alleging them as Naxalites, which this report has highlighted.

Recommendations

Thus, it is clear that the present system is incapable of delivering justice to the majority of impoverished millions, especially, the most impoverished sections of Adivasi, Dalit and other such oppressed classes and castes and to the natural environment on which these millions depend on their survival. In addition, the prevalent system also produces and perpetuates gross injustice as it struggles to make ostensibly legitimate and acceptable to a nonchalant urban middleclass. Moreover, on the basis of the analytical chapter of this report, it is also clear that the most deprived sections of Adivasis have adhered to their alternate imaginations of a more egalitarian, democratic, authentic and less exploitative relationships with the other and with the natural environment. However, given the onslaught of the so-called, “modern” capitalist mainstream values, the extinction of Adivasi societies, their cultural values and legacies of egalitarianism, pure reciprocity,¹⁶⁹ symbiotic relationship with the nature, etc. are imminent. Their distinct, more sustainable sociocultural, political and economic values and systems, although labelled as “primitive,” have increasingly been recognised as a solution to the impending catastrophe of

¹⁶⁸ ‘Greater Jharkhand’ includes the entire geographical territory of current Jharkhand state plus Bankura, Purulia, Midnapur, in West Bengal; Keonjhar, Mayurbhanj, Sundargarh, and Sambalpur in Odisha; and Raigarh, Jashpur, Surguja, and Korea in Chhattisgarh. Had Jharkhand state included all these areas, it would have had an Adivasi majority [Sundar, N. (2009) *Legal Grounds: Law, Politics and Practices in Jharkhand*, op. cited: p. 20].

¹⁶⁹ Pure reciprocity in human relations is love for love, intimacy for intimacy, trust for trust as opposed to the purely ‘utilitarian’ relation of human beings to one another, and to nature [D’Mello, B. (2012) ‘Arundhati Roy, Anuradha Ghandy, and Romantic Marxism’, the introductory remarks at the Fourth Anuradha Ghandy Memorial Lecture delivered by Arundhati Roy on 20th January 2012 at St Xavier’s College, Mumbai].

environmental pollution and ecological imbalances, and a corrective to the onslaught of destructive capitalist mainstream. Hence, it is crucial that Adivasi societies and their sociocultural values and ways of life that are life-promoting more sustainable must continue to exist, be appreciated and adhered to. Given the course of history and the insight it provides, this is not going to happen by itself, at least in India, while Adivasis are increasingly deprived of their spaces and resources and are under attack from myriads of forces that progressively engulf them.

Hence, for a meaningful and urgently needed systemic change, it is important to rediscover, revive and facilitate the empowerment of Adivasi cultural values that have so far been degraded by mainstream and have become dormant. This might require, first of all, joining the continued struggle of Adivasis, in solidarity, to preserve their traditional livelihood resources and to learn from their ways of life, their more humanising values and secrets of egalitarianism, democracy and revolutionary descent to fight domination, exploitation and oppression. This must also be done in solidarity with all those who are deprived by the prevalent system. A meaningful expression of such solidarity must show itself in the emergence of a more organised *people's democratic rights movement* that would roughly make sure that the following short and long-term objectives are progressively and continuously realised:

1. Provide legal and financial aid to all alleged Naxalite under-trials who are deliberately persecuted, tortured and harassed. Work towards mechanisms that might ensure them speedy justice, compensation for unnecessary harassment and persecution that have made them economically poorer and physically weak and to ensure that the persecutors are punished for their inhuman and criminal actions.
2. Make sure that the “welfare measures,” such as distribution of cheap food materials introduced by the state, mainly to pacify agitating ‘political societies,’ to keep an impoverished, cheap and divided work force, and to save the prevalent systemic arrangements from the defamation of having a large number of hunger-deaths in predominantly Adivasi regions, reach the really deserving beneficiaries.¹⁷⁰ This is required given the famine like situations prevalent in most rural villages in Adivasi regions and without which a mass movement might be impossible to move towards creating pressure on meaningful implementation of pro-people legislations and constitutional provisions.
3. Visualise and chart out an alternate development paradigms, strategies, plans and projects based on Adivasi ethos, cultural values and ways of life that are more sustainable, egalitarian, democratic, and plan out realistic people-cantered, village-society and agriculture oriented small scale labour intensive. All this will work if people’s meaningful and equal participation and consensus are valued and ensured at all levels, and to create an enabling environment for everyone to have equal access to resources and opportunities that alone will promote

¹⁷⁰ Presently, these materials often do not reach them due to rampant mismanagement at all levels of departmental administration and the middlemen/women that mediate between the impoverished villagers and the administrative staff.

people's freedom as autonomous and capable agents. This, of course, might require learning from impoverished Adivasis' alternative imaginations and ways of life.

4. Work towards the re-enactment of PESA at the regional level with all its central provisions that are pro-Adivasi-Moolvasis in Jharkhand integrating the multiple, complex and conflicting local administrative systems – traditional, present Panchayat and the bureaucratic systems that create unnecessary troubles for local people – and empower people to reformulate and implement the Jharkhand Panchayatiraj Act by taking advantage of all pro-Adivasi provisions in the central PESA Act and by following the principle of subsidiarity. This means the people at the Panchayat level with their democratically elected representatives will manage institutions of primary education, health centres, the public distribution system, etc. and take the control and manage equitable use of all natural resources – including minerals, land, forest and water-bodies – in their territory.
5. Make workable arrangements to redistribute the so-called “wastelands” in Fifth Schedule areas that have been inappropriately and illegally appropriated by the united Bihar state during the last land settlement operation (during 1963-65). Also restore all pieces of land belonged to Adivasis illegally appropriated by non-Adivasis, at least, during post-independence period.
6. Make sure that no Adivasi will be displaced from his/ her homeland without first having made sure that he/ she is satisfactorily compensated, resettled and rehabilitated in such a way that his/ her socioeconomic position is better than that prior to his consent to let go of his piece of land and all that it offered him/ her.
7. Finally, ensure that the trees in the forest, and the water in ponds, lakes and rivers and the bauxite on the mountains remain undisturbed and the subsoil minerals are utilized more sustainably and equitably for the welfare of all, with priority for the people in whose land they are found and not for the profit of a handful of greedy capitalists, politicians and their agents.

Annexure

Annexure-1

Questionnaire for Under trials in Jharkhand

I. Demographic & Socioeconomic Profile

1. Name (Full): _____ 4. Age: _____

2. Father's Name: _____

3. Complete Address: _____

4. Social Group:

| | | | |
|----|----|-----|---------|
| SC | ST | OBC | General |
|----|----|-----|---------|

 5. Religion:

| | | | | |
|-------|--------|-------|-----------|-------|
| Hindu | Muslim | Sarna | Christian | Other |
|-------|--------|-------|-----------|-------|

6. Marital status:

| | | | |
|-----------|---------|---------|-----------|
| Unmarried | Married | Widower | Separated |
|-----------|---------|---------|-----------|

7. Education:

| | | | | | | |
|------------|----------------------------|---------|--------|------|-------|----------|
| Illiterate | Literate without schooling | Primary | Middle | High | Inter | Graduate |
|------------|----------------------------|---------|--------|------|-------|----------|

8. Personal Occupation:

| | | | | |
|-----------|-------------|---------------|---------------|---------|
| Govt. job | Private job | Self-employed | Casual Labour | Student |
|-----------|-------------|---------------|---------------|---------|

9. Family:

| | | |
|---------|-------|-----------------------------|
| Nuclear | Joint | Number of dependents: _____ |
|---------|-------|-----------------------------|

10. Others Earning in the Family:

| | | |
|-----|-----------------|-------------------|
| Non | How many: _____ | Occupation: _____ |
|-----|-----------------|-------------------|

11. Cultivable Land Possessed (in acres): _____

12. Family's total Monthly Income:

| | | | | | |
|---------|-------------|--------------|---------------|---------------|--------------|
| < 3,000 | 3,000-5,000 | 5,000-10,000 | 10,000-15,000 | 15,000-20,000 | Above 20,000 |
|---------|-------------|--------------|---------------|---------------|--------------|

II. Crime/ Case Related Information

1. Date of: (a) Arrest _____ (b) Imprisonment _____ (c) Date of bail _____

2. Nature of crime committed:

3. Visit by family members

| | | | |
|----------------|-----------|------------------|-------------------|
| Regular visits | only once | has some contact | No contact at all |
|----------------|-----------|------------------|-------------------|

| | | | | | | | |
|---|--------------|----|-----|--------------------------|---------------|-----|----|
| Case Type IPC No: _____ | Bailed out?: | No | Yes | If No, <i>why?</i> _____ | Under Trial?: | Yes | No |
| Factors cause delay in release on Bail and delay in trial (if applicable): Amount of money spent for bail? | | | | | | | |

4. Contact of the Lawyer: _____

5. Date of Verdict (if applicable): _____ 6. Nature of Punishment: _____

7. Number of Months in Prison:

| | | | | |
|------|-------|-------|-------|--------|
| 1-10 | 11-20 | 21-30 | 31-40 | More?: |
|------|-------|-------|-------|--------|

1. How many times and how often have you attended the court?

2. Expenses of a trips to the court:

10. Have you committed the crime you have been accused of?

Yes

No

11. If you are innocent, 1. How and why were you arrested and 2. How would you prove your innocence?

1.

2.

12. Problems faced in the Jail:

a.

b.

c.

d.

e.

14. Your experience of the police, arrest, justice/ legal administrative system...

1. Police:

2. Arrest:

3. Legal System: