

In the Name of Development

Indigenous Rights
Violations and
Shrinking Space
in Chhattisgarh



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**IN THE NAME
OF DEVELOPMENT
INDIGENOUS RIGHTS
VIOLATIONS
AND SHRINKING SPACE
IN CHHATTISGARH**

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Preface

Today in India, the “world’s largest democracy,” Adivasis’ (indigenous peoples of India) rights to self-determination and land are systematically violated. The Universal Periodic Review of India’s human rights record at the United Nations Human Rights Council in November 2022 presents an opportunity to reflect on the situation of Adivasi rights in India. This report presents insights into the ongoing assault by the Indian state and powerful corporations on the indigenous peoples of the country through a case study of Chhattisgarh. In particular, the report will highlight the legal and institutional means through which powerful state, military and corporate actors appropriate land and shrink space for Adivasi rights and resistance in Chhattisgarh.

Through legal and institutional means, powerful state, military and corporate actors appropriate land and shrink space for Adivasi rights and resistance in Chhattisgarh

Located in central India, the state of Chhattisgarh was carved out of Madhya Pradesh in 2000 to facilitate state-sanctioned and corporate-led resource extraction. Nearly a third of this relatively small state’s population is comprised of Adivasis, who account for 10% of India’s overall indigenous population. Although laws have been passed that recognize Adivasi rights to their land and forests, as well as that introduce environmental protections, their implementation has been negligible, while the populations in the areas in question have been subjected to illegal acquisition of indigenous lands, widespread displacement and environmental devastation. This environment of disempowerment, relentless land grabbing and dispossession, in tandem with a vibrant history of resistance against this subjugation, has resulted in an indigenous peoples’ rebellion in the southern areas of Chhattisgarh. The Indian state’s response has been overwhelmingly militaristic, invoking states of emergency and deploying counter-insurgency tactics and anti-terrorism measures.

Since the ruling Bharatiya Janata Party (BJP) came into power in 2014, state-sanctioned land grabs by corporations in Chhattisgarh have accelerated. The new government has introduced successive laws and policies that reverse existing constitutional and statutory guarantees of self-governance and tenure rights for indigenous peoples.

There has also been a manifold increase in the deployment of security forces, exacerbating the conflict in Chhattisgarh’s southern areas and resulting in unprecedented levels of extrajudicial killings, false arrests, sexualized violence, illegal detentions, and torture of the Adivasis in the area. With increased militarization and corporatization of the state, attacks against human rights defenders have intensified, particularly against those working on the issues of displacement, sexualized violence and militarization.

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Such violations of indigenous peoples’ rights are not limited to the state of Chhattisgarh but extend across India and other parts of the world, as impunity reigns for those involved in the violations stemming from state-corporate projects presented under the banner of development and progress. These developments closely correlate with the global trend of “shrinking space” for civil society, an umbrella concept to describe a new generation of restrictions on political struggle in recent decades,¹ and a phenomenon particularly prevalent in natural resource struggles.² This report explores ways in which the law and such trends in corporate takeover, militarization, and repression of civil society intersect to shrink space, both literally and metaphorically, for Chhattisgarh’s indigenous residents.

The law and trends in corporate takeover, militarization, and repression of civil society intersect to shrink space, both literally and metaphorically, for Chhattisgarh’s indigenous residents.

- 1 Transnational Institute, On “Shrinking Space” A Framing Paper (2017), [https://www.tni.org/files/publication-downloads/on_shrinking_space_2.pdf.] accessed 14 September 2022.
- 2 C. Terwindt and C. Schliemann, Tricky Business: Space for Civil Society in Natural Resource Struggles (2017), Heinrich Böll Foundation/European Center for Constitutional and Human Rights, [https://www.ecchr.eu/fileadmin/Publikationen/Tricky_Business.pdf.] accessed 14 September 2022.

The Adivasis of Chhattisgarh

An introduction

The word “Adivasi” is a combination of two Hindi words: *Adi* and *Vasi*, which literally translate to “original inhabitant.”³ The Indian constitution classifies Adivasis as “Scheduled Tribes” based on a combination of historical, cultural and socio-economic factors, with special provisions for the protection of their rights, identity and livelihoods.⁴ On 5 January 2011, the Supreme Court of India reaffirmed that Adivasis are in fact the descendants of the original inhabitants of India,⁵ but despite voting in favor of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Indian government refuses to recognize Adivasis as “indigenous” peoples as per the international legal term.⁶ According to the 2011 population census, the total population of Adivasis in India consists of 104 million people. This means that 8.6% of the Indian population are Adivasi, making them the world’s largest population of indigenous people.⁷

The central Indian state of Chhattisgarh was carved out of Madhya Pradesh in 2000. A product of the new millennium, it has aggressively sought investments for its core industrial sectors of steel, cement and energy production, all of which rely heavily on the state’s abundant mineral resources. The past two decades of its existence have wrought devastation on indigenous lands, communities and livelihoods, and thus offer a prime example of how the dictates of “development” unfold on the ground, and of the violence that such developmental processes involve.

- 3 Colonial anthropologists and administrators used the terms “tribe” or “tribals” to refer to the indigenous people of India. The government of India uses the term “Scheduled Tribes” (ST) in official documents. The indigenous people of India call themselves “Adivasis,” and hence, the term Adivasis is employed in this report.
- 4 S. Faizi and Priya K. Nair, ‘Adivasis: The World’s Largest Population of Indigenous People’ (2017) Society for International Development [https://cjp.org.in/wp-content/uploads/2021/08/Adivasis-Indias-IPs-faizi-and-nair.pdf] accessed 14 September 2022.
- 5 *Kailas & others versus State of Maharashtra in criminal appeal No. 11/2011* (2011) AIR 2011 Supreme Court of India 598).
- 6 United Nations Declaration on the Rights of Indigenous Peoples, [https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html] accessed 14 September 2022. See further: IWGIA, Indigenous peoples in India [https://www.iwgia.org/en/india.html last] accessed 20 September 2022.
- 7 Census India (2011) *Provisional population totals paper 1 of 2011 India series 1*. New Delhi: Office of Registrar General and Census Commissioner.





The motivation behind the creation of Chhattisgarh can be understood from the following quote, as mentioned on the state's official website:

The basic purpose of its formation, according to the government's rationale, would be defeated if the natural resources are not used due to constraints of stringent protective forest laws and environment problems. To ease these strains and to provide accessibility for the purpose of natural resources utilization to the deprived class of the region, it has become imperative to draft a suitable mineral policy for the nascent State. The stringent self-serving policies are detrimental to facilitate financial investment.⁸

Plentiful reserves of high-quality minerals in Chhattisgarh, coupled with abundant water resources, have greatly attracted the interest of coal, iron and steel industries. Since 2005, the state has also consistently ranked among the highest in terms of total forest land diverted for existing or planned mining projects.⁹ In the 2021–22 annual report of India's Ministry of Mines, Chhattisgarh ranked second among Indian states in terms of its estimated potential value for mineral production.¹⁰ Yet, state and corporate interest in mining the region has not coincided with concern for the original inhabitants of these lands. Due to so-called “development” projects, 65–75 million people have been displaced in India since 1947, 40% of whom have been Adivasis.¹¹ Moreover, the arrival of mining and industrial projects has contaminated key water sources, laid to waste prime agricultural land, and uprooted Adivasi villages.

State and corporate interest in mining the region has not coincided with concern for the original inhabitants of these lands

- ⁸ Chhattisgarh at a Glance *Micro, Small, and Medium Enterprises* [online]. Available from: <http://msmediraipur.gov.in/chhattisgarh.htm>. accessed 14 September 2022.
- ⁹ A Behar et.al 'Parliamentary digest: Bridging the gap between parliament and people, 49' (2005) National Centre for Advocacy Studies, Pune.
- ¹⁰ Government of India Ministry of Mines (2022) *Annual Report 2021–22* [online]. New Delhi: Government of India. Available from [https://mines.gov.in/writereaddata/UploadFile/Mines_AR_2021-22_English.pdf] accessed 14 September 2022.
- ¹¹ Report of The Standing Committee on Rural Development *Ministry of Rural Development—Govt. of India* [online]. Available from: [https://eparlib.nic.in/bitstream/123456789/64751/1/15_Rural_Development_31.pdf] accessed 14 September 2022.

Approximately 30% of the population of Chhattisgarh is Adivasi, accounting for 10% of the overall indigenous population of India.¹² There are 43 Scheduled Tribes in Chhattisgarh alone, including Gonds, Madias and Bhils.¹³ The Adivasis in Chhattisgarh are mainly engaged in subsistence agriculture and are heavily dependent upon the forests and the land for their everyday needs. Living in thinly populated hamlets, the Adivasi villages are largely self-sufficient units, with weekly markets in nearby small towns providing the only access to the market economy. Not only were the Adivasis who inhabit the region not meaningfully included in the decision to create the state of Chhattisgarh, but during the 22 years of Chhattisgarh's existence, they have primarily existed on the margins, battling famine, disease, and disenfranchisement, while the non-Adivasi trading community has benefitted tremendously from the business opportunities generated by the new state.

The kind of “development” underway in Chhattisgarh only promises to increase the alienation of the Adivasis, while doing little to correct the historical injustices perpetrated against them.

The kind of “development” underway in Chhattisgarh only promises to increase the alienation of the Adivasis, while doing little to correct the historical injustices perpetrated against them. The state continues to remain mired in poverty and performs poorly on all health indices, including infant and maternal mortality rates, as well as malnourishment levels among children.¹⁴ Such data demonstrates that the Adivasi populations are some of the most historically neglected and dispossessed populations in India, which have consistently been excluded from the state's various welfare and social protection mechanisms. In their case, the Indian state has only acted in a predatory fashion—dispossessing them of their forests, rivers, lands and livelihoods.

¹² National Crime Records Bureau, Ministry of Home Affairs (2016) *Crime In India* [online]. New Delhi: Government of India. Available from: [https://tribal.nic.in/ST/Statistics8518.pdf.] accessed 14 September 2022.

¹³ ‘Revision in the list of Scheduled Tribes of Chhattisgarh’ (7th CPC News, 16 February 2019) [https://7thpaycommissionnews.in/revision-in-the-list-of-scheduled-tribes-of-chhattisgarh] accessed 14 September 2022.

¹⁴ Expert Group (Rangarajan) Report, 2014; Sample Registration Survey, 2013; Special Bulletin on MMR, June 2011—Registrar General of India; National Family Health Survey—3 (2005-2006); India State Hunger Index-2008 *Govt. of India*.

THE LEGAL LANDSCAPE: DEVELOPMENTAL CAPITALISM VS ADIVASI RIGHTS

Land and forest areas belonging to the Adivasis in India have been appropriated through various means, including through legislation and under the auspices of development and conservation projects. The Indian Forest Act, 1865 and that of 1878, followed by the Indian Forest Act, 1927 enacted by the British colonial regime, resulted in nationalization and privatization of forests. After achieving independence, India essentially continued the tradition of these kinds of policies and enacted the Wildlife Protection Act, 1972 and the Forest Conservation Act, 1980, which resulted in increasing dispossession and alienation of Adivasis from forest land and resources.

On the books, India boasts an array of progressive laws that recognize and protect the rights of Adivasis with regard to their land and forests.

On the books, India boasts an array of progressive laws that recognize and protect the rights of Adivasis with regard to their land and forests. The Constitution of India, under its Fifth and Sixth Schedule, contains special provisions for the administration and control of “Scheduled Areas,” designed to protect Adivasi autonomy and culture. In Chhattisgarh, seven of the state's 33 districts have been fully recognized as Scheduled Areas, while another six districts are partially recognized.¹⁵

Importantly, the Fifth Schedule of India's constitution recognizes the rights to self-governance over land, forests and resources through customary laws and institutions.¹⁶ Read alongside the Chhattisgarh Panchayati Raj Adhiniyam, 1993, the Fifth Schedule recognizes rights to self-governance within Scheduled Areas, including the right to free, prior and informed consent (FPIC). Furthermore, the Forest Rights Act, 2006, reinforces individual and collective rights and establishes the conditions for relocation, stipulating that this may occur only if the right to FPIC was properly respected. This Act was passed to correct the historical injustice inflicted on the Adivasis by the British colonial regime and the post-independence Indian state.¹⁷ The Panchayats (Extension to Scheduled Areas) Act, 1996 requires that a village assembly (Gram Sabha) be consulted before the state can take over any land in the Scheduled Areas.

¹⁵ Scheduled Areas *Department of Tribal and Scheduled Caste* [online]. Available from: <http://tribal.cg.gov.in/scheduled-areas>, accessed 14 September 2022.

¹⁶ Land and Governance Under the Fifth Schedule *Ministry of Tribal Affairs* [online]. Available from: [https://tribal.nic.in/downloads/FRA/5.%20Land%20and%20Governance%20under%20Fifth%20Schedule.pdf.] accessed 14 September 2022.

¹⁷ See the Preamble of the Forest Rights Act, 2006.

While large parts of the state are still excluded from these special protections, and while shortcomings in the implementation of the laws have always been present,¹⁸ the Indian government, in recent years, has mainly sought to ease access to Adivasi lands for private corporations and extractive projects, instead of progressively realizing these constitutional guarantees.¹⁹

Since 2014, the current Indian BJP government has introduced multiple laws and policies that reverse the guarantees of self-governance and tenure rights for Adivasi communities. Rights are undermined by means of a regime of colonial and postcolonial laws that vest the state with overall ownership and control of forestland and the power of eminent domain over land and resources. Laws like the Forest Rights Act, 2006,²⁰ the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013,²¹ the Indian Forest Act, 1927,²² the Coal Bearing Areas (Acquisition and Development) Act, 1957,²³ and the Forest Conservation Act, 1980²⁴ are being purposefully amended to curb and undermine the rights of Adivasis. Many of these amendments and “legal reforms” were enacted during the lockdowns in response to the COVID-19 pandemic, which placed severe restrictions on public consultations.²⁵

OUTLOOK

The following chapters will elaborate on the ways in which the Indian state mobilizes legal institutions, political power, as well as military and paramilitary forces, to facilitate and secure private corporations’ access to the land and resources upon which entire communities are dependent, leading to their dispossession and disenfranchisement—a practice which is not limited to but is especially extreme for the Adivasis of Chhattisgarh.

- 18 Jacob Koshy, ‘Aliens in their own lands: when Chhattisgarh’s tribals were turned into encroachers’ (The Hindu, 6 April 2019) [https://www.thehindu.com/news/national/encroachers-on-their-own-lands/article26749821.ece] accessed 14 September 2022.
- 19 Sudha Bharadwaj, ‘The Legal Face of the Land Grab in Chhattisgarh’ (2018) Academia.edu [https://www.academia.edu/16972107/Legal_face_of_the_Land_Grab_in_Chhattisgarh] accessed 14 September 2022.
- 20 Kritika Agarwal, ‘India’s dilution of progressive land and forest rights regime threatens to hijack democracy’ (The Leaflet, 20 May 2018) [https://www.theleaflet.in/indias-dilution-of-progressive-land-and-forest-rights-regime-threatens-to-hijack-democracy] accessed 14 September 2022.
- 21 Namita Wahi ‘How Central and state governments have diluted the historic land legislation of 2013’ (The Economic Times, 14 April 2018) [https://economictimes.indiatimes.com/news/politics-and-nation/how-central-and-state-governments-have-diluted-the-historic-land-legislation-of-2013/articleshow/63764378.cms] accessed 14 September 2022.
- 22 Hariitha John, ‘How proposed changes to Forest Act could pave way for more environmental damage’ (The News Minute, 4 December 2021) [https://www.thenewsminute.com/article/how-proposed-changes-forest-act-could-pave-way-more-environmental-damage-158376] accessed 14 September 2022.
- 23 Satyam Shrivastava, ‘Proposed amendments to Coal Bearing Areas Act will change land acquisition for mining: Experts’ (Down To Earth, 10 August 2021) [https://www.downtoearth.org.in/news/mining/proposed-amendments-to-coal-bearing-areas-act-will-change-land-acquisition-for-mining-experts-78388] accessed 14 September 2022.
- 24 Pavani Neeleshwar, ‘Understanding the proposed amendments to the Forest Conservation Act, 1980’ (The Leaflet, 19 October 2021) [https://www.theleaflet.in/understanding-the-proposed-amendments-to-the-forest-conservations-act-1980] accessed 14 September 2022.
- 25 Lara Jesani, ‘COVID-19 in India: An excuse to dilute environmental policy to benefit businesses’ (Business and Human Rights Resource Center, 21 January 2021) [https://www.business-humanrights.org/en/blog/covid-19-in-india-an-excuse-to-dilute-environmental-policy-to-benefit-businesses] accessed 14 September 2022.



Corporate takeover

Developmental capitalism, extractive industries and Adivasi rights

Chhattisgarh was formed as a separate state in India in 2000 to facilitate economic development, particularly in the form of natural resource exploitation. Home to 7.5% of India's Adivasis ("Scheduled Tribes" under Indian law), the state's indigenous inhabitants possess customary rights of autonomy and self-governance over land, forests and other natural resources, normatively recognized both under colonial rule and the post-independence Constitution of India, to be implemented progressively through legislative and policy action. Since its establishment, however, Chhattisgarh's development trajectory has belied these guarantees of autonomy and self-governance.

Chhattisgarh, covering 5.1% of India's landmass, ranks fifth in India in terms of the value of its major mineral production, with a 9.8% share of the country's total in 2014–15.²⁶ Chhattisgarh is the only state which produces tin ore in India, and in addition, it contains reserves that hold 68% of all iron ore in the country. Mining and quarrying operations have steadily contributed to roughly 10% of the state's gross domestic product over the past 10 years²⁷ and over 50% of its non-tax revenue stream.²⁸

Close to 46% of the state's geographical territory is administratively classified as forest land²⁹ and since 2000, the state government has diverted and auctioned vast tracts of land and mineral wealth to private corporations for development projects.³⁰ Although systematic data on the scale of land acquisition and forest diversion is not publicly accessible, available data indicates that between 2000–2003 alone, 1,710 sq. kms of forest land were diverted, with 67.22% of this land diversion designated for mining purposes.³¹

²⁶ *Mineral Resources of Chhattisgarh*. Mineral Resources Department, Government of Chhattisgarh. The data available is of 2014–2015. <http://chhattisgarhmines.gov.in/sites/default/files/cg-mineral-resources-20-x-10-eng.pdf> accessed 5 September 2022.

²⁷ *Chhattisgarh Economic Survey 2013–14*. Raipur, Chhattisgarh: Directorate of Economics and Statistics.

²⁸ *Statistical Abstract of Chhattisgarh, 2011–12*. p. 96. Raipur, Chhattisgarh: Directorate of Economics and Statistics.

²⁹ *Statistical Abstract of Chhattisgarh, 2016–17*. p. 1. Raipur, Chhattisgarh: Directorate of Economics and Statistics, p. 1.

³⁰ 28 minerals are mined in Chhattisgarh at present, including Diamond, Coal, Iron Ore, Limestone, Dolomite, Bauxite and Tine Ore, among others.

³¹ *Report of the High Level Committee on Socio-economic, Health and Educational Status of Tribal Communities in India* (May 2014). p. 263. New Delhi: Ministry of Tribal Affairs, Government of India.

During the period from 1 January 2015 until 5 February 2019, the state diverted a total of 37.93 sq. kms of land for various non-forestry purposes, including mining.³²

The Adivasis in Chhattisgarh mainly engage in subsistence agriculture and are heavily dependent on forest produce for their everyday needs. Mining and industrial projects at such large scales have caused significant environmental damage in the form of deforestation, pollution of rivers and other water sources, as well as the degradation of customary villages without adequate rehabilitation. This vast increase in illegal land grabs of Adivasi territory is consistently in violation of constitutional and statutory provisions prohibiting the transfer of Adivasi land to non-Adivasis.

Chhattisgarh was formed as a separate state in India in 2000 to facilitate economic development, particularly in the form of natural resource exploitation.

Depriving Adivasis of their customary lands and forest resources, without their free, prior and informed consent, violates statutory rights under the domestic legal regime as stipulated in the Fifth Schedule to the Constitution, the Panchayat (Extension to Scheduled Areas) Act, and the Scheduled Tribes and Other Traditional Forest-Dwellers (Recognition of Forest Rights) Act. The state also fails to follow due process in the acquisition and diversion of land for development projects under the Forest Conservation Act and the Land Acquisition Act, among others.

The influx of non-tribal communities into tribal areas has resulted in the depletion of land holdings under Adivasi control and has undermined local culture.³³ For instance, in the early 2000s, the National Mining Development Corporation (NMDC) began acquiring land in the rural hamlets of the Dantewada district, South Chhattisgarh, for the Nagarnar Steel Plant, an integrated steel plant spread over 19.8 sq. kms of rural land. Three hundred families were displaced for the construction of the plant, which promised to generate employment for the Adivasi families affected by the project.³⁴

³² Forest Survey of India, *India State of Forest Report 2019, volume 2*, p. 45. New Delhi: Ministry of Environment, Forest and Climate Change, Government of India. Available from [<https://fsi.nic.in/isfr19/vol2/isfr-2019-vol-ii-chhattisgarh.pdf>] accessed 14 September 2022.

³³ B.D. Sharma, 'Twenty Ninth Report of the Commissioner for Scheduled Castes and Scheduled Tribes' D.O. No. 1/ Gen. / 90 RU III (Commissioner of Sch. Castes and Sch. Tribes, 1990), [<https://hrln.org/uploads/2019/07/b-d-sharma.pdf>] accessed 14 September 2022; Khanna Shomona and others. *Criminalisation of Adivasis and the Indian Legal System* (Indigenous Peoples Rights International 2021) 207.

³⁴ Saurav Kumar, 'Bastar: Villagers Grapple with Unemployment, Poverty Two Decades after giving land to Steel Plant' *NewsClick* (New Delhi, 23 September 2021) [<https://www.newsclick.in/bastar-villagers-grapple-enemployment-poverty-two-decades-giving-land-steel-plant>] accessed 14 September 2022.



These promises never came to fruition, however, as a substantial portion of the 2,000-member workforce were brought in from outside Chhattisgarh. Widespread Adivasi protests in response led to 100 villagers being given jobs at the steel plant.³⁵ Since their inception, development projects like the Nagarnar Steel Plant have rarely brought tangible benefits to the local Adivasi populations.³⁶

Private and state corporations engaged in mining and other industries benefit from illegalities in the state's exercise of eminent domain and the exclusion of Adivasis from consultation proceedings. As this report will show, corporations often illegally occupy lands beyond those diverted by the state, as well as pollute soil and bodies of water without preventive or reparative action, violating the "polluter pays" principle. The state routinely fails to act against private actors who violate obligations defined in various forms of environmental legislation.³⁷ In such cases, corporations benefit from the lack of enforcement of regulatory standards, while both state and corporate actors fail to uphold their obligations under the "protect, respect, and remedy" framework of the UN Guiding Principles on Business and Human Rights.³⁸

Since their inception, development projects like the Nagarnar Steel Plant have rarely brought tangible benefits to the local Adivasi populations.

Historical evidence shows that the eviction of Adivasi people has been relentless in India.³⁹ Additionally, the Adivasis face severe oppression when trying to defend their collective and individual rights to land, forests and water. Such dispossession has given rise to a range of forms of protest and opposition, especially in South Chhattisgarh, including democratic mobilization and armed struggle. To counter this resistance, the state government has employed a "law and order" ideology, making South Chhattisgarh one of the most militarized zones in India. State and corporate actors alike shrink civic space through criminalization, surveillance and harassment of activists, journalists and human rights defenders working to document violations and support Adivasi struggles.

³⁵ Saurav Kumar, 'Bastar: Villagers Grapple with Unemployment, Poverty Two Decades after giving land to Steel Plant' *NewsClick* (New Delhi, 23 September 2021) [https://www.newsclick.in/bastar-villagers-grapple-enemployment-poverty-two-decades-giving-land-steel-plant] accessed 07 September 2022.

³⁶ Saurav Kumar, 'Bastar: Villagers Grapple with Unemployment, Poverty Two Decades after giving land to Steel Plant' *NewsClick* (New Delhi, 23 September 2021) [https://www.newsclick.in/bastar-villagers-grapple-enemployment-poverty-two-decades-giving-land-steel-plant] accessed 07 September 2022.

³⁷ Sudha Bharadwaj, 'How corporate land grab is sought to be legitimized in Chhattisgarh by misusing legal framework' *Counterview* (15 February 2018) [https://counterview.org/2018/02/15/how-corporate-land-grab-is-sought-to-be-legitimized-in-chhattisgarh-by-misusing-legal-framework] accessed 12 September 2022.

³⁸ UN Guiding Principles on Business and Human Rights. Implementing the United Nations "Protect, Respect and Remedy" Framework. 2011, [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf last] accessed 15 September 2022.

³⁹ Debjee Sarangi, 'How Development excludes Adivasi Peoples' *India Development Review* (Mumbai, 12 February 2019) [https://idronline.org/how-development-excludes-Adivasi-peoples] accessed 07 September 2022.

LEGAL PROTECTIONS OF ADIVASI RIGHTS AND THEIR DILUTIONS

India does not recognize Adivasis as Indigenous people *per se*. However, it does grant constitutional recognition to them as “Scheduled Tribes.” Various progressive laws, such as the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006⁴⁰ and Panchayat (Extension to Scheduled Areas) Act, 1996,⁴¹ recognize the rights of Adivasis to self-governance of their land and resources. In 2013, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 was introduced, aimed at recognizing and preserving the pre-existing right of the Adivasis to their lands, both as individual and collective community rights (community forest rights), and mandating that the consent of the Gram Sabha be obtained prior to any acquisition of land.

The Adivasi right to self-governance in India, for the rural areas, is manifested in the form of Gram Sabhas (at the village level), the Janpad Panchayat (at the block level), and the Zilla Panchayat (at the district level). These institutions were formed and given autonomous status through customary law for the purposes of self-governance of traditional homelands and prohibition of land alienation, among others in 1948 itself, through the Fifth Schedule of the Indian Constitution. The right to self-governance was further strengthened through the Panchayati (Extension to Scheduled Areas) Act, 1996, passed at the national level, and the Chhattisgarh Panchayati Raj Adhiniyam, 1993,⁴² passed in Chhattisgarh State. Notably, the Panchayati (Extension to Scheduled Areas) Act, for the first time, mandated prior consultation with and approval from the Gram Sabhas for any proposed project in Scheduled Areas.⁴³ This law represented a milestone regarding the protection of Scheduled Tribes from land alienation and also includes provisions for the restoration of unlawfully alienated lands.

Importantly, the Forest Rights Act, 2006 was passed to correct the historical injustice inflicted upon the Adivasis by the British colonial regime and the post-independence Indian state. The preamble states:

- ⁴⁰ The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 [https://tribal.nic.in/FRA/data/FRARulesBook.pdf. 1) Recognizes a bundle of rights as the pre-existing forest rights of STs and Other Traditional Forest Dwellers (OTFDs) to community forests (CFR), household lands (IFR), forest produce etc., individually and collectively. 2) Also recognizes “habitat rights” of Particularly Vulnerable Tribal Groups (PVTGs) 3) Recognizes the authority of the Gram Sabha (village assembly comprising all adult members with the full and unrestricted participation of women) to manage, protect and conserve forests. In 2013, the Supreme Court of India held that the overall authority of the Gram Sabha to manage and protect forests mandates their free, prior and informed consent for any proposed project or activity affecting their rights: Orissa Mining Corporation v. Ministry of Environment and Forests, 4) Lays down a procedure for the recognition and verification of forest rights, with the Gram Sabha as the primary authority 5) Protects against dispossession until rights settlement processes are complete.
- ⁴¹ Panchayats (Extension to Scheduled Areas) Act 1996. s. 4 (PESA) [https://legislative.gov.in/sites/default/files/A1996-40.pdf. PESA states that every Gram Sabha shall approve the plans, programs and projects for social and economic development before they are implemented at the village level. PESA also states that the Gram Sabha is particularly endowed with the power to prevent alienation of land in the Scheduled Areas, and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe.
- ⁴² Chhattisgarh Panchayati Raj Adhiniyam 1993 (CPRA) http://www.bareactslive.com/Ch/CG043.HTM. CPRA was an act to consolidate and amend the law relating to establishment of Panchayats with a view to ensure effective involvement of the Panchayati Raj Institutions in the local administration and development activities. Autonomous governance of Panchayati Institutions were expanded to include the rights of self-governance over land, forests and resources within Scheduled Areas through the CPRA.
- ⁴³ PESA Act 1996, s.4

And whereas the forest rights on ancestral lands and their habitat were not adequately recognised in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem.⁴⁴

The Act has been hailed as “historic” with respect to Adivasi land rights. For instance, a report by the Rights and Resources Initiative proclaims:

The recognition of Community Forest/Community Forest Resource Rights under the FRA provides the Indian state with a historic opportunity to implement the largest land reform ever in India. Through the FRA, at least 150 million forest dwelling people have gained the opportunity to have their rights recognized over a minimum of 40 million hectares (mha) of forest land that they have been managing, using, and interacting with in more than 170,000 villages.⁴⁵

While a game-changer in theory, the Act has attracted a range of criticisms, both in terms of its conceptual framework and its implementation in practice. One major issue is that the majority of claims are rejected on frivolous grounds. In a 2012 study by the Asian Indigenous and Tribal Peoples Network, it was noted that the high rate of rejections amounted to a “perpetuation of the historical injustices” for the intended beneficiaries.⁴⁶ Similarly, in its “Guide to the Forest Rights Act,” the *Campaign for Survival and Dignity* states that “the Act that was finally passed was not the Act that had been fought for. The government is now trying further to damage it by including changes in the Rules to the Act that will undermine it more.”⁴⁷ The failure to implement the Act is often the result of a lack of political will.⁴⁸

⁴⁴ Forest Rights Act 2006. Preamble

⁴⁵ Rights and Resources Institute. 2015. *Potential for Recognition of Community Forest Resource Rights Under India's Forest Rights Act*. [online] Available from: http://rightsandresources.org/en/publication/potential-for-recognition-of-community-forest-resource-rights-under-indias-forest-rights-act/ [accessed on 14 September 2022].

⁴⁶ Asian Indigenous and Tribal Peoples Network. 2012. *The State of the Forest Rights Act: Undoing of Historical Injustice Withered*. New Delhi: AITPN.

⁴⁷ Campaign for Survival and Dignity. A Guide to the Forest Rights Act [https://www.academia.edu/4506679/A_GUIDE_TO_THE_FOREST_RIGHTS_ACT_CAMPAIGN_FOR_SURVIVAL_AND_DIGNITY last] accessed 15 September 2022.

⁴⁸ Oxfam India. 2015. *Implementing the Forest Rights Act: Lack of Political Will?* Oxfam Policy Brief, No. 15. New Delhi: Oxfam India.

Under the Forest Rights Act, 2006, while individual rights over forest land are recognized for cultivation, community forest resource rights give Gram Sabhas the right to protect, regenerate, conserve or manage any forest resources used by the entire community, even when inside a national or wildlife park. In 2020, to mark the occasion of World Indigenous Day, Chhattisgarh, for the first time, recognized the community forest resource rights of 54 villages across ten of the state's 33 districts. There is still a long way to go, however, given that the state has identified 12,500 of its 20,000-odd villages as qualifying for the granting of community forest resource rights, of which only approximately 3,600 villages have so far been awarded their titles.⁴⁹

As of 2019, only 5% of the total population eligible for individual forest rights had claimed them.⁵⁰ Of these claims, only 44% have been recognized, while the rights granted ultimately extend to significantly less territory than what was originally claimed and often contain illegal restrictions on the exercise of the forest rights.⁵¹ The remaining 56% of the claims were rejected without adequate due process, especially in areas with proposed mining and other development projects (e.g., Balrampur, Bilaspur, Korba, Raigarh, Sarguja, Surajpur).⁵²

In a pending case before the Supreme Court, in which 1 million forest dwelling Adivasis across India were ordered to be evicted from their forest lands due to lack of proper documents proving their claims as individual and community forest rights holders, the Chhattisgarh government acknowledged that it had wrongfully rejected a large number of claims under the Forest Rights Act, and initiated processes for their review, which are still ongoing.⁵³ However, in an affidavit filed pertaining to this matter, the Chhattisgarh government also acknowledged that of 20,095 claims to forest rights it received, it had only taken action in 4,830 cases.⁵⁴

- ⁴⁹ Zumbish, 'Fight for forest rights: Why these Dhamtari Adivasis gave up over 100 acres of cropland to plant trees' (Down to Earth, 7 September 2022) [<https://www.downtoearth.org.in/news/forests/fight-for-forest-rights-why-these-dhamtari-adivasis-gave-up-over-100-acres-of-cropland-to-plant-trees-84785>] accessed 14 September 2022.
- ⁵⁰ Government of India Ministry of Tribal Affairs Monthly update on status of implementation of the scheduled Tribes and Other iraditional Forest Dweller (Recognition of Forest Rights) Act, 2006 28 April 2022 [[https://tribal.nic.in/downloads/FRA/MPR/2021/\(A\)%20MPR%20Dec%202021.pdf](https://tribal.nic.in/downloads/FRA/MPR/2021/(A)%20MPR%20Dec%202021.pdf)] accessed 20 September 2022.
- ⁵¹ Government of India Ministry of Tribal Affairs Monthly update on status of implementation of the scheduled Tribes and Other Traditional Forest Dweller (Recognition of Forest Rights) Act, 2006 28 April 2022 [[https://tribal.nic.in/downloads/FRA/MPR/2021/\(A\)%20MPR%20Dec%202021.pdf](https://tribal.nic.in/downloads/FRA/MPR/2021/(A)%20MPR%20Dec%202021.pdf)] accessed 20 September 2022.
- ⁵² Government of India Ministry of Tribal Affairs Monthly update on status of implementation of the scheduled Tribes and Other Traditional Forest Dweller (Recognition of Forest Rights) Act, 2006 28 April 2022 [[https://tribal.nic.in/downloads/FRA/MPR/2021/\(A\)%20MPR%20Dec%202021.pdf](https://tribal.nic.in/downloads/FRA/MPR/2021/(A)%20MPR%20Dec%202021.pdf)] accessed 20 September 2022.
- ⁵³ *Wildlife First v. Ministry of Forest and Environment* [2019], WP(C) 109/2008, Order dated 21.02.2019.
- ⁵⁴ *Wildlife First v. Ministry of Forest and Environment* [2019], WP(C) 109/2008, Order dated 19.02.2019.



The Supreme Court has temporarily put the eviction order “on hold,” pending further information from state governments related to questions of due process. However, the threat of evictions remains, affecting more than 1 million forest dwellers in India, including large numbers in Chhattisgarh.⁵⁵

Since 2014, the Indian government has actively engaged in the dilution of protective laws, while also introducing new laws and policies that reverse existing guarantees of Adivasi self-governance and tenure rights.⁵⁶

- In 2015, the Coal Mines (Special Provisions) Act, 2015 was passed by India’s central government in response to the Supreme Court’s order canceling 400 coal block allocations on grounds of widespread violations and irregularities.⁵⁷ The Act permits private companies—many of which were named as violators—to continue their prospecting, reconnaissance and mining operations.
- In 2020, the Mineral Laws (Amendment) Act, 2020 was passed to permit private companies to continue coal mining for their “own consumption, sale or any other purpose.”⁵⁸ Meanwhile, the Coal Bearing Areas (Acquisition and Development) Act, 1957 continues to give sweeping powers to India’s central government to acquire land that contains or is likely to contain coal deposits.
- Similarly in 2020, the Mines and Minerals (Regulation and Development) Act, 1957 (MMRDA) was amended to automatically extend the mining leases of successful bidders for two years. In 2021, the two-year time limit was scrapped.⁵⁹ As per the Seventh Schedule of the Indian Constitution, the MMRDA grants powers to the state governments to control the granting of quarry leases, mining leases or other mineral concessions concerning mines in their areas. This was done to ensure that minerals, which constitute a nation’s wealth, are “not frittered away and exhausted by any one generation.”⁶⁰ However, this entire process was centralized through the 2020 amendment to the law, granting power to the central government to auction coal mines anywhere in India.

⁵⁵ *Wildlife First v. Ministry of Forest and Environment* [2019], WP(C) 109/2008. Order dated 28.02.2019.

⁵⁶ Chetan Chauhan, ‘Forest Rights Act diluted for projects’ *Hindustan Times* (New Delhi, 29 October, 2014) [https://www.hindustantimes.com/india/forest-rights-act-diluted-for-projects/story-cl3LrPEr7XXfMq4jpf1BQI.html] accessed 07 September 2022.

⁵⁷ *Manohar Lal Sharma v Principal Secretary & Others* [2014] 9 SCC 516, Supreme Court held that the entire allocation of Coal Blocks made between 1993 and 2011, except those which were made through competitive bidding, were invalid, unfair arbitrary and violative of Article 14 of the Constitution of India.

⁵⁸ The Mineral Laws (Amendment) Act 2020, s. 7(b).

⁵⁹ The Mineral Laws (Amendment) Act 2020, s. 5.

⁶⁰ *State of Tamil Nadu v Hindstone* [1981] 2 SCR 742.

- Recently, on 28 June 2022, in a “body blow” to forest rights jurisprudence in India, the central government ratified a new set of Forest Conservation Rules, 2022,⁶¹ which allow private developers to cut down forests without first seeking FPIC from the relevant Gram Sabha. This was achieved by effectively shifting the responsibility to acquire Gram Sabha consent from the Ministry of Environment, Forest and Climate Change to the administration of the state government, which inevitably erodes the provisions mandating prior Gram Sabha consent.⁶²

RIGHT TO FREE, PRIOR AND INFORMED CONSENT (FPIC) IN PRACTICE

While the right to FPIC is established in law, it is violated in practice across India in several ways.⁶³ First, the Gram Sabhas are often not consulted or their objections are ignored.⁶⁴ Second, “No Objection Certificates” are forged or obtained under threat by the state police or security forces.⁶⁵ Third, outdated laws like the Coal Bearing Areas Act, 1957⁶⁶ are used to acquire land, bypassing later, more protective laws that require FPIC, like the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Fourth, Adivasis are not informed about their rights; many are simply unaware that they have the right to refuse.⁶⁷ Additionally, relevant information is often difficult for Adivasis to access, as it is mainly available in languages not spoken by Adivasi communities.

While the right to FPIC is established in law, it is violated in practice across India in several ways.

⁶¹ Ministry of Environment, Forest and Climate Change, ‘New Forest Conservation Rules 2022’ (28 July, 2022) [https://pib.gov.in/PressReleasePage.aspx?PRID=1845824] accessed 07 September 2022.

⁶² Mukta Joshi and Nitin Sethi, ‘Government to approve cutting down of forests without consent from tribals and forest dwellers’ *NewsLaundry* (New Delhi, 07 July 2022) [https://www.newsLaundry.com/2022/07/07/government-to-approve-cutting-down-of-forests-without-consent-from-tribals-and-forest-dwellers] accessed 14 September 2022.

⁶³ Amnesty International India, ‘When land is lost, do we eat coal?’, Coal mining and violations of Adivasi rights in India’(2016) [https://www.amnesty.org/fr/wp-content/uploads/2021/05/ASA2043912016ENGLISH.pdf] accessed 06 September 2022.

⁶⁴ Neeraj Agrawal, ‘Pathalgadi movement: Chattisgarh govt’s undermining of tribal rights, PESA Act provisions led to resistance’ *FirstPost* (New Delhi, 24 July 2018) [https://www.firstpost.com/india/pathalgadi-movement-chhattisgarh-govts-undermining-of-tribal-rights-pesa-act-provisions-led-to-resistance-4809841.html] accessed 09 September 2022.

⁶⁵ Sumedha Pal, ‘Chhattisgarh Anti-mining Protests: Consent of Gram Sabhas Faked under pressure from Adani group’ *NewsClick*, (New Delhi, 24 October 2019) [https://www.newsClick.in/Chhattisgarh-Anti-mining-Protests-Consent-Gram-Sabhas-Faked-Under-Pressure-Adani-Group] accessed 09 September 2022.

⁶⁶ Coal Bearing Areas Act 1957, s. 4, 7, 8 & 9 [https://legislative.gov.in/sites/default/files/A1957-20.pdf]

⁶⁷ Survival International, ‘The officials from the reserved forced us to leave’ [https://assets.survivalinternational.org/documents/1894/illegal-evictions-from-indias-tiger-reserves.pdf] accessed 10 September 2022.



COAL MINING IN KORBA DISTRICT, NORTH CHHATTISGARH

A prime example of how protective laws are violated in practice can be seen in the Korba District in the north of Chhattishgarh, which, as the source of 20% of the country's coal, is one of India's top coal-producing districts.⁶⁸ It contains two of the largest coalfields in the state, the Korba coalfield and part of the Hasdeo Arand coalfield, and 41% of the district's population are Adivasis.⁶⁹

The Hasdeo forests are home to indigenous Adivasi communities, water sources, biodiversity, and endangered animals. But beneath this rich ecosystem lies the Hasdeo Arand coalfield.

The Hasdeo forests, spanning north Chhattisgarh's Korba, Surajpur and Sarguja districts, contain some of central India's largest unfragmented forests, composed of pristine sal (*Shorea robusta*) and teak trees.⁷⁰ These forests are home to indigenous Adivasi communities, water sources, biodiversity, and endangered animals, including elephants and leopards. But beneath this rich ecosystem lies the Hasdeo Arand coalfield, extending over an area of 1,879.6 sq. kms.⁷¹ It is comprised of 30 coal blocks with a billion metric tons of verified coal reserves, three of which are already the sites of mining operations.⁷² "Mine developer and operator" (MDO) contracts for all of the coal blocks have been awarded to one of India's most powerful corporations, Adani Enterprises Limited, headed by Gautam Adani—a close friend of Prime Minister Narendra Modi and the second richest man on the planet.⁷³

⁶⁸ Ministry of Coal *Monthly Statistical Report* (January 2022). [online] Available from: [<https://coal.gov.in/sites/default/files/2022-03/srn-jan-2022.pdf>].] accessed 14 September 2022.

⁶⁹ Registrar General & Census Commissioner *Census of India 2011—Report on Enumeration Survey*. [online] Available from: [<https://censusindia.gov.in/2011Census/pes/Pesreport.pdf>].] accessed 14 September 2022.

⁷⁰ Indian Council of Forestry Research and Education (ICFRE) for the State of Chhattisgarh *Biodiversity study in the entire Hasdeo-Arand Coalfield comprising of Tara, Parsa, Parsa East & Kanta Basan and Kente Extension coal blocks in Chhattisgarh* (15 July 2021). [online] Available from: [https://drive.google.com/file/d/130VEbTffNHZyG_b5XHUMFnkYGCmKjQd8h/view] accessed 14 September 2022.

⁷¹ Chitragada Choudhury, 'Chhattisgarh's Adivasis Are On 300-Km March To Save The Hasdeo Forests, Latest In A Decade-Long Protest Against Coal Mining' (Article 14, 7 October 2021) [<https://article-14.com/post/chhattisgarh-s-adivasis-are-on-300-km-march-to-save-the-hasdeo-forests-latest-in-a-decade-long-protest-against-coal-mining--615e7394bbf8b>] accessed 14 September 2022.

⁷² Rishi Pandey, 'Government Grants Environmental Clearance to Parsa Coal Block in Chhattisgarh's Hasdeo Arand' (Land Conflict Watch, 22 September 2016) [<https://www.landconflictwatch.org/conflicts/government-approves-coal-mining-in-biodiversity-rich-hasdeo-arand-forest-in-chhattisgarh>] accessed 14 September 2022.

⁷³ Indian Billionaire Gautam Adani Scales New Heights To Become The World's Second-Richest Person, *Forbes* (16 September 2022) [<https://www.forbes.com/sites/gloria.haraito/2022/09/16/indian-billionaire-gautam-adani-scales-new-heights-to-become-the-worlds-second-richest-person/?sh=62e89142290b>] accessed 16 September 2022.

IMPACTS OF STATE AND CORPORATE PRACTICES: ENVIRONMENTAL DEGRADATION

Chhattisgarh is facing “a severe pollution crisis in the region with levels of several carcinogenic toxic metals in air, water, and soil not meeting environmental standards.”⁹⁴ This has been a byproduct of the intensive mining operations carried out in the area, with the casualties being the residents of Chhattisgarh. In 2005, Chhattisgarh’s capital city of Raipur was declared India’s most polluted city with Suspended Particulate Matter (SPM) amounting to 250 micrograms per cubic meter, and with the concentration of dust particles at 350 parts per million (ppm).⁹⁵ Since then, environmental concerns have escalated rapidly with the state government’s reckless policy of cutting down the forest cover to embark on mining projects.

The air in the Korba District, for instance, is almost unbreathable. Its Air Quality Index rating is so critical that the Chhattisgarh State Human Rights Commission in 2020 directed the state to submit a report, citing concerns about the “fundamental right to life” resulting from such a “degraded environment.”⁹⁶ Furthermore, the open transportation of coal, black trees, and mounds of ash are a common sight in the region. The lives of people are threatened not only by the poor quality of air but also by polluted water, contaminated by the discharge from power plants that, in turn, impacts their crops.⁹⁷

Environmental concerns have escalated rapidly with the state government’s reckless policy of cutting down the forest cover to embark on mining projects.

The generation of electricity by coal-fired thermal power plants—including the mining of coal, its transportation, washing and preparation at the power plant, as well as its combustion, and the disposal of post-combustion waste—poses serious risks to the health of miners, plant workers and residents in the vicinity of mines and power plants. Both environment and peoples’ physical and mental health becomes compromised through exposure to the high levels of toxic heavy metals found in the air, water, soil and sediment.⁹⁸

- ⁹⁴ ELAW, ‘Pollution Crisis in Chhattisgarh, India’ *Environment Law Alliance Worldwide* (17 August 2017) [https://elaw.org/pollution-crisis-chhattisgarh-india-0] accessed 09 September 2022.
- ⁹⁵ ‘Raipur: the most polluted city’, (*Down to Earth*, October 15, 2005) [https://www.downtoearth.org.in/news/raipur-the-most-polluted-city-10227] accessed 08 September, 2022.
- ⁹⁶ Ejaz Kaiser, ‘Chhattisgarh human rights commission seeks report on rising pollution in Korba’ *New Indian Express*, (New Delhi, 7 November 2020) [https://www.newindianexpress.com/nation/2020/nov/07/chhattisgarh-human-rights-commission-seeks-report-on-rising-pollution-in-korba-2220697.html] accessed 08 September 2022.
- ⁹⁷ Ejaz Kaiser, ‘Chhattisgarh human rights commission seeks report on rising pollution in Korba’ *New Indian Express*, (New Delhi, 7 November 2020) [https://www.newindianexpress.com/nation/2020/nov/07/chhattisgarh-human-rights-commission-seeks-report-on-rising-pollution-in-korba-2220697.html] accessed 08 September 2022.
- ⁹⁸ Ejaz Kaiser, ‘Mining, power plants harm villagers’ health in Chhattisgarh’s Raigarh’, *New Indian Express* (New Delhi 04 December, 2017) [https://www.newindianexpress.com/nation/2017/dec/04/mining-power-plants-harm-villagers-health-in-chhattisgarhs-raigarh-1717781.html] accessed 09 September 2022.

RAIGARH

Another highly impacted region in Chhattisgarh is Raigarh. For almost two decades, Raigarh has been home to six coal-fired power plants, seven coal mines and two coal washeries, all of which, except for one, are privately operated. Since the mines and plants were set up, people in the surrounding villages, who have been living there for much longer, have lost agricultural land and the surrounding forests, which had been a major source of sustenance for the villagers. These days, the region is “reeling from severe impacts of coal mining and thermal power generation” and the mines have contributed greatly to high levels of pollution and environmental degradation.⁹⁹

In June 2020, when nine coal blocks in Hasdeo Aranya were allotted and auctioned by the central government, the entire state, including the state government, raised strong objections to any mining in the region. Consequently, five blocks in the Hasdeo Aranya Forest were excluded from the mining allotment, while three blocks in the Raigarh district—Dolesara, Jarekela and Jharpalam-Tangarghat—were added to the list.¹⁰⁰ In 2021, Adani Enterprises Limited, along with Mahan-genco, submitted a winning bid to develop and operate another coal mine in the Gare Pelma-II coal block, from which it can potentially extract up to 23 million tons of coal annually.¹⁰¹ Villagers have protested against not only the arbitrary looting of their land, as FPIC was acquired fraudulently, but they have also expressed great worry regarding the polluted environment of the areas in the vicinity of these mines and coal plants.¹⁰²

As a result of existing coal mines in Raigarh, Adivasis suffer from chronic joint pain, bone deformities, skin allergies, respiratory illness and tuberculosis.¹⁰³ The water and air samples from several Adivasi villages in the Raigarh district indicate high levels of chromium, cadmium, manganese and selenium.¹⁰⁴

- ⁹⁹ Manthan Adhyayan Kendra, ‘Commercial Coal Mining Auctions Legal, Social & Ecological Concerns around Inclusion of Mines in Mand Raigarh of Chhattisgarh’ (September 16, 2020) [https://www.manthan-india.org/commercial-coal-mining-auctions-legal-social-ecological-concerns-around-inclusion-of-mines-in-mand-raigarh-of-chhattisgarh] accessed February 09, 2022.
- ¹⁰⁰ ANI, ‘38 mines to be offered in auction for commercial purposes: Coal Ministry’ (*Indian Express*, 03 September, 2020) [https://www.newindianexpress.com/business/2020/sep/03/38-mines-to-be-offered-in-auction-for-commercial-purposes-coal-ministry-2191951.html] accessed 08 September, 2022.
- ¹⁰¹ Press Trust of India, ‘Adani Enterprises inks coal mining agreement with MAHAGENCO’ *Live Mint* (New Delhi, 02 April, 2021) [https://www.livemint.com/companies/news/adani-enterprises-inks-coal-mining-agreement-with-mahagenco-11617364875078.html] accessed 08 September, 2022.
- ¹⁰² Sidharth Yadav, ‘Mahagenco’s mining project in Raigarh put on ice’ *The Hindu* (Bhopal, 28 December, 2019) [https://www.thehindu.com/news/national/other-states/mahagencos-mining-project-in-raigarh-put-on-ice/article30421516.ece] accessed 08 September, 2022.
- ¹⁰³ ELAW, ‘Pollution Crisis in Chhattisgarh, India’ *Environment Law Alliance Worldwide* (17 August 2017) [https://elaw.org/pollution-crisis-chhattisgarh-india-0] accessed 09 September 2022.
- ¹⁰⁴ ELAW, ‘Pollution Crisis in Chhattisgarh, India’ *Environment Law Alliance Worldwide* (17 August 2017) [https://elaw.org/pollution-crisis-chhattisgarh-india-0] accessed 09 September 2022.



In Raigarh village, a study by ELAW¹⁰⁵ found the acceptable levels of arsenic to have been exceeded by 1.7 times and that of cadmium by 4.4 times.¹⁰⁶ Another health study conducted by medical and public health experts from the People First Collective India in Raigarh discovered serious health problems among the residents living around coal mines and thermal power plants in Raigarh's Tamnar block. The study entitled "Health and Environmental Impact of Coal Mining in Chhattisgarh," surveyed more than 500 people in three villages in the Tamnar block within a two-kilometer radius of power plants and coal mines.

According to the report, "health-related complaints identified amongst participants in this study are significantly high. Ten most prevalent chronic health conditions among residents interviewed included hair loss and brittle hair; musculoskeletal joint pain, body ache and backache; dry, itchy and/or discolored skin and cracked sole; and dry cough complaints." Also, according to the findings of the study, "women predominantly experienced these chronic health problems of which dry cough and shortness of breath (77%), hair loss (76%) and musculoskeletal/joint pain (68%) were most prevalent."¹⁰⁷ The study also found that there was a significantly lower crop yield in these areas, with an estimated 70% of surveyed households in the three villages—in all of which farming is the main occupation—complaining that crop yield was poor. Of the 82 households surveyed in Sarasmal village, for instance, 45% no longer depended on agriculture because of low crop yield.¹⁰⁸

In 2013–2014, people from Sarasmal and Kosampalli villages monitored the air pollution and were startled by their findings. Water levels in the rivers and ponds had fallen; they found that fly ash was forming a layer on everything it could land on, from treetops to rooftops. Soil, air and water samples were obtained and analyzed from these villages. Most villagers depend on underground water sources, such as tube wells and borewells for drinking water, and ponds and streams for bathing, washing and for animals. Air samples showed high levels of arsenic, lead, nickel, manganese and silicon—higher than the permissible limit specified by Indian standards.¹⁰⁹

¹⁰⁵ ELAW, 'Pollution Crisis in Chhattisgarh, India' *Environment Law Alliance Worldwide* (17 August 2017) [<https://elaw.org/pollution-crisis-chhattisgarh-india-0/>] accessed 09 September 2022.

¹⁰⁶ Jayashree Nandi, 'Soil, metal and air contaminated by heavy metal in these Chhattisgarh villages' *The Times of India*, (New Delhi, August 9, 2021) [<https://timesofindia.indiatimes.com/city/raipur/soil-water-and-air-contaminated-with-heavy-metals-in-these-chhattisgarh-villages/articleshow/59982842.cms>] accessed 07 September, 2022.

¹⁰⁷ Rinchin M et al, *The health and environmental impact of coal mining in Chhattisgarh*, (2017) [https://pfcollectiveindia.files.wordpress.com/2017/11/raigarh_report_final-2.pdf]; The study surveyed more than 500 people in 3 villages of Tamnar Block within 2-kilometer radius of power plants and coalmines.

¹⁰⁸ Rinchin and others, *The health and environmental impact of coal mining in Chhattisgarh*, (2017) [https://pfcollectiveindia.files.wordpress.com/2017/11/raigarh_report_final-2.pdf] accessed 08 September 2022; The study surveyed more than 500 people in 3 villages of Tamnar Block within 2-kilometer radius of power plants and coalmines.

¹⁰⁹ Lakshmi Supriya, 'Survey reveals pathetic Health Conditions around Raigarh Coal Mines, Plants' *The Wire* (New Delhi, 15 December, 2017) [<https://thewire.in/environment/survey-reveals-pathetic-health-conditions-around-raigarh-coal-mines-plants>] accessed 11 September, 2022.

In fact, a report by a committee, formed in pursuance to an order of the National Green Tribunal, has suggested against further mining activities in Raigarh, as especially the “Tamnar-Gharghoda block region is close to exceeding its environmental carrying capacity.”¹¹⁰ The Committee also found that “a rapidly sinking groundwater table, loss of forest cover, and rapidly deteriorating public health have driven people towards civil disobedience even in the face of police backlash.”¹¹¹

In the south of Chhattisgarh, the rivers Dankini and Shankini have turned into brown sludge, made of ground rock, iron ore and effluents generated from the Bailadila mines. Adivasis from 100 villages in the Dantewada district use this “red” water for their everyday needs and suffer from its impacts.¹¹²

In the south of Chhattisgarh, the rivers Dankini and Shankini have turned into brown sludge, made of ground rock, iron ore and effluents generated from the Bailadila mines.

Adivasis today are mostly dependent on agriculture, and for decades now, the river has impacted crop yields in the area. Many Adivasis have switched to using rainwater for irrigation purposes. There are no fish left in the river, and dust from the mines layers the crops, affecting production. Most wells are drying up, as well.¹¹³ In total, Bailadila mines have damaged almost 35,000 hectares of agricultural and forest land.¹¹⁴ Children suffer from stomach ailments and other various diseases. Several attempts have been made to address the situation, including by building dams to filter the water. These dam installations have led to large scale debris collections, which in the monsoons are carried out by the flooding river, destroying lives and livelihoods.¹¹⁵

¹¹⁰ *Shivpal Bhagal v Union of India*, O.A. No. 104/2018, Order dtd. 27.02.2020.

¹¹¹ *Shivpal Bhagal v Union of India*, O.A. No. 104/2018, Order dtd. 27.02.2020.

¹¹² Maureen Nandini Mitra ‘Rivers Shankini and Dankini in Chhattisgarh run dirty’, *Down to Earth*, (New Delhi, 31 December 2006) [https://www.downtoearth.org.in/coversage/rivers-shankhini-and-dankini-in-chhattisgarh-run-dirty-8894] accessed 08 September, 2022.

¹¹³ Maureen Nandini Mitra, ‘Rivers Shankini and Dankini in Chhattisgarh run dirty’, *Down to Earth*, (New Delhi, 31 December 2006) [https://www.downtoearth.org.in/coversage/rivers-shankhini-and-dankini-in-chhattisgarh-run-dirty-8894] accessed 08 September, 2022.

¹¹⁴ Ishan Kukreti, Prashanth S Chinnappanavar, and Purushottam Thakur, ‘Chhattisgarh may have stopped Bailadila Mining, but for how long’ *Down To Earth* (New Delhi, 17 July, 2019) [https://www.downtoearth.org.in/news/mining/chhattisgarh-may-have-stopped-bailadila-mining-but-for-how-long--65461] accessed 09 September, 2022.

¹¹⁵ Maureen Nandini Mitra, ‘Rivers Shankini and Dankini in Chhattisgarh run dirty’, *Down to Earth*, (New Delhi, 31 December 2006) [https://www.downtoearth.org.in/coversage/rivers-shankhini-and-dankini-in-chhattisgarh-run-dirty-8894] accessed 08 September, 2022.

IMPACT ON SACRED SITES AND TRADITIONAL CULTURAL PROPERTIES (TCP)

The Forest Rights Act, 2006, Section 13, vests rights in the Adivasis and the forest dwellers over the forest, as a community and as individuals. Adivasi communities are mostly animistic, and they worship nature and elements that occur in nature. Several hills, water bodies and rock formations form parts of their sacred sites. As these remain part of the natural landscape, reckless development activities often dispossess them of their sacred sites, causing insult to their injury. Furthermore, villagers are intimately bound with the TCP in their areas, which are of extreme importance for the preservation of their culture and society. Mining and militarization desecrate and destroy sacred sites and, therefore, violate the integrity of many Adivasi cultures.

As an example of this tendency, the Rowghat Mining Project and Dalli Rajhara Rowghat Railway Project¹¹⁶ are based in the Matla Reserve Forest and the Rowghat hills, in the south of Chhattisgarh, which are sacred sites for local indigenous communities.¹¹⁷ There are several deities located in the hills, such as the gods Gumankal and Gadelkal, who live on the land that was leased away to mining operations. The villagers contend that any encroachment upon or destruction of the locations of the sacred sites would insult the deities¹¹⁸ and effectively destroy the cultural heritage of the Adivasis in the region. Despite continuous objections by the communities, the Indian state has been proactively conducting mining operations within this region and building railway lines through it for the transportation of coal. This has led to the dispossession of the lands of the Adivasi people and has severely impacted their culture.¹¹⁹ In protest, Adivasi villagers have engaged in an indefinite sit-in, blockading a road in Rowghat and demanding that the approval for the mines be canceled.

¹¹⁶ Asha Verma, ‘Dalli-Rajhara-Rowghat-Jagdalpur Rail Project in Chhattisgarh Hit Multiple Roadblocks, Farmers Demand Compensation, Employment’ (Land Conflict Watch, 25 March 2018) [https://www.landconflictwatch.org/conflicts/farmers-land-acquired-for-dallirajhara-rowghat-jagdalpur-rail-project] accessed 14 September 2022.

¹¹⁷ Paramita Ghosh, ‘Raoghat mines in Bastar: Iron in their souls’ *Hindustan Times* (New Delhi, 30 March 2014) [https://www.hindustantimes.com/india/raoghat-mines-in-bastar-iron-in-their-souls/story-wh0f6njppQ5tR0lsHAHf1M.html] accessed on 7 September 2022; Sagarika ‘Prosperity, thorns, a village road: Ground report from Khodgaon (near Rowghat iron ore reserve)’ *Down to Earth* (New Delhi, 20 June 2021) [https://www.downtoearth.org.in/news/mining/prosperity-thorns-a-village-road-ground-report-from-khodgaon-near-rowghat-iron-ore-reserve--77578] accessed on 7 September 2022.

¹¹⁸ Deepanshu Kainthola, ‘Rowghat Iron-Ore Project: A Curse for Tribals of Chhattisgarh?’, *Tatsat Chronicle*, (New Delhi, April 2, 2022) [https://tatsatchronicle.com/rowghat-iron-ore-project-a-curse-for-tribal-of-chhattisgarh] accessed 09 September 2022.

¹¹⁹ Deepanshu Kainthola, ‘Rowghat Iron-Ore Project: A Curse for Tribals of Chhattisgarh?’, *Tatsat Chronicle*, (New Delhi, April 2, 2022) [https://tatsatchronicle.com/rowghat-iron-ore-project-a-curse-for-tribal-of-chhattisgarh] accessed 09 September 2022.

The Adivasis have endured a massive backlash in response to this protest, and their attempts to register a complaint under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act have been in vain.

The villagers have faced constant pressure, in the form of bribes as well as illegal intimidation from the police and the administration. Threats of criminal prosecution under anti-terror laws loom large.¹²⁰ In 2014, an activist and founder of the Rowghat Bachao Sangharsh Samiti, Badri Gawde, was arrested under false charges of aiding the Naxalites in the region. In 2016, another leader was imprisoned as well.¹²¹

In a moment of bittersweet victory, the iron ore mining project slated for Bailadila “Deposit 13” in Dantewada district in the South of Chhattisgarh was halted on 11 June 2019 after large-scale protests against the project. The Bailadila project is a joint venture between two public sector companies and Adani Enterprises Limited.¹²² The Adivasi villagers claimed that the project is located in the region of Nand Raj Pahad, a deity which is extremely sacred to the Koya Adivasi community.¹²³ Overwhelming evidence was also produced to show that the resolutions of the Gram Sabhas permitting mining, which had been procured by the government in 2014, were fake.¹²⁴ The costs of such victories are high: Hidme Madkam, one of the Adivasi women activists at the forefront of the struggle against the mining of the sacred site was arrested under draconian anti-terror legislation on false charges of counter-insurgency.¹²⁵ Meanwhile, the threat that the mining operations will resume still looms large, as the government seems determined to continue mining in the area.¹²⁶

- ¹²⁰ Deepanshu Kainthola, ‘Rowghat Iron-Ore Project: A Curse for Tribals of Chhattisgarh?’, *Tatsat Chronicle*, (New Delhi, April 2, 2022) [https://tatsatchronicle.com/rowghat-iron-ore-project-a-curse-for-tribal-of-chhattisgarh] accessed 09 September 2022.
- ¹²¹ Riddhi Pandey, ‘Tribal Communities Oppose Rowghat Iron Ore Mine in Chhattisgarh to Protest Forestland’, *Land Conflict Watch*, (New Delhi, 4 October, 2016) [https://www.landconflictwatch.org/conflicts/raoghat-iron-ore-mines] accessed on 9 September 2022.
- ¹²² Rakhi Mazumdar, ‘NMDC to develop 10 mtpa Bailadila Iron Ore Deposit-13 in Chhattisgarh’ *Economic Times* (New Delhi 7 June 2019) [https://economictimes.indiatimes.com/industry/indl-goods/svs/metals-mining/nmhc-developing-10-mtpa-bailadila-iron-ore-deposit-13-in-chhattisgarh/articleshow/69693671.cms] accessed on 10 September 2022.
- ¹²³ Ishan Kukreti, Prashanth S Chinnappanavar, and Purushottam Thakur ‘Chhattisgarh may have stopped Bailadila Mining, but for how long’ *Down To Earth* (New Delhi, 17 July, 2019) [https://www.downtoearth.org.in/news/mining/chhattisgarh-may-have-stopped-bailadila-mining-but-for-how-long--65461] accessed 09 September, 2022.
- ¹²⁴ Ritesh Mishra, ‘“No gram sabha nod for Bailadila mining,” reveals probe’, *Hindustan Times* (New Delhi 07 March 2020) [https://www.hindustantimes.com/india-news/no-gram-sabha-nod-for-bailadila-mining-reveals-probe/story-iKmaO2aaxbI46TDS34c3UL.html] accessed on 10 September 2022.
- ¹²⁵ Madkam Hidme had been arrested on 09.03.2022 by the Aranpur Police Station, Dantewada District on trumped up charges of being part of a Naxalite incident. She has been charged under the provisions of Sections 25(1B)(a) & 27(1) of the Arms Act, 1959; Sections 4(b) & 5 of the Explosive Substances Act, 1908; and Sections 13(1)(a)(b), 23, 38(2) & 39(2) of the Unlawful Activities (Prevention) Act, 1967. Her bail application before the Hon’ble High Court of Chhattisgarh was rejected on 28.03.2022 and the case is at the stage of prosecution evidence. Sukanya Shanta, ‘When Process Is Punishment: Hidme Markam’s Activism and the Sketchy Cases Against Her’ *The Wire* (New Delhi, 5 April, 2021) https://thewire.in/rights/hidme-markam-chhattisgarh-arrest-Adivasi-rights] accessed on 9 September 2022.
- ¹²⁶ Ishan Kukreti, Prashanth S Chinnappanavar, and Purushottam Thakur ‘Chhattisgarh may have stopped Bailadila Mining, but for how long’ *Down To Earth* (New Delhi, 17 July, 2019) [https://www.downtoearth.org.in/news/mining/chhattisgarh-may-have-stopped-bailadila-mining-but-for-how-long--65461] accessed 09 September, 2022.

As this chapter has shown, the dictates of development when pursued for profit via natural resource exploitation in Chhattisgarh have led to significant violations of Adivasi rights to self-governance of their land and resources, with disastrous impacts on a broader range of human rights in the process. Despite legal protections on the books, state and corporate actors have devised a variety of tactics to shrink space for Adivasis seeking to enforce their rights—from mobilizing alternative pro-development laws and altering material realities on the ground, to cracking down on protests and criminalizing resistance activities. As the next chapter outlines, these practices have led to the systematic deployment of violence by state and corporate actors against Adivasis, whether in response to asserting their rights or simply because they are Adivasi villagers in the wrong place at the wrong time.

Despite legal protections on the books, state and corporate actors have devised a variety of tactics to shrink space for Adivasis seeking to enforce their rights—from mobilizing alternative pro-development laws and altering material realities on the ground, to cracking down on protests and criminalizing resistance activities.

In the name of security

Militarization, displacement and violence

Contestation over the mineral-rich topography of the state of Chhattisgarh has led to its militarization by the Indian government at great cost to its indigenous population. This chapter traces the links between militarization, land acquisition by the state, and mineral extraction by corporations in specific regions. Militarized mining in Chhattisgarh has led to widespread displacement and, consequently, to increased resentment and violence. As a result, these regions have witnessed large-scale human rights violations, including extrajudicial killings and sexualized violence, by police and security forces deployed by the state and central Indian governments.¹²⁷

AN INTRODUCTION TO BASTAR

The hills and forests of the southern region of Chhattisgarh commonly known as Bastar are an ecological treasure. The region comprises seven districts and is where a large part of Chhattisgarh's Adivasi population resides. The culture and mode of life of the Adivasi communities inhabiting these lands differs markedly from those of mainstream India, and for a long time, they managed to maintain relative autonomy from the administrative control of the Indian state. More recently, however, the state has made significant incursions into Bastar, both to explore and exploit its mineral wealth, and to exercise territorial sovereignty.¹²⁸ These incursions have led to violence, forced evictions and displacement of the local Adivasi population, spurring various forms of resistance.¹²⁹

- ¹²⁷ All India People's Forum's Fact-Finding Team Visit To Bastar 'Rapes, Arbitrary Arrests And Fake Surrenders Rampant In Bastar' *Counter Currents* (New Delhi 16 June 2016) [https://countercurrents.org/aipf160616.htm] accessed on 9 September 2022; Nandini Sundar 'Darkness at Noon in the 'Liberated Zone' of Bastar' *The Wire*, (New Delhi 4 February 2016). [https://thewire.in/rights/darkness-at-noon-in-the-liberated-zone-of-bastar] accessed on 9 September 2022
- ¹²⁸ Bastar's mineral wealth includes 10% of the country's iron ore reserves, as well as bauxite, platinum, corundum, dolomite and limestone, among others, see: *Mineral Resources of Chhattisgarh*. Mineral Resources Department, Government of Chhattisgarh. The data available is of 2014–2015. <http://chhattisgarhmines.gov.in/sites/default/files/cg-mineral-resources-20-x-10-eng.pdf> accessed on 5 September 2022.
- ¹²⁹ Supriya Sharma, 'Iron ore mines going for Rs 1 lakh in Chhattisgarh?' *The Times of India* (New Delhi 2 August 2010) [https://timesofindia.indiatimes.com/india/iron-ore-mines-going-for-rs-1-lakh-in-chhattisgarh/articleshow/6245781.cms] accessed on 09 September 2022.



The Bastar region has been the site of an ongoing armed conflict over the last three decades.¹³⁰ Although it is well recognized, even within official state documents and reports,¹³¹ that the armed struggle in the region arose due to the lack of adequate land reform, the tyranny of forest rangers and local administrators, and the complete alienation of local Adivasi populations from official governance structures, the state has instead framed the conflict as a “law and order” problem, to which it has responded with an increasing number of police battalions and paramilitary forces. Today, Bastar stands out as one of the most militarized regions in India.

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The exploitation and disempowerment of Adivasis in the region, combined with a vibrant history of rebellion against subjugation by the British colonial regime, have fostered, in turn, an insurgency in the Bastar region of Chhattisgarh. As a result, Chhattisgarh, along with other adjoining states, has been the site of a left-wing armed insurgency led by the Communist Party of India (Maoists) [CPI(M)], commonly referred to as the Naxalites. A majority of the combatants in the Chhattisgarh region are Adivasis who have picked up arms to fight for their land, forests and water.

¹³⁰ Aman Sethi, ‘Kafka in Chhattisgarh: The bureaucratization of violence in India’ *Al Jazeera* (Bastar, 8 November 2015) <http://america.aljazeera.com/multimedia/2015/11/kafka-in-chhattisgarh-the-bureaucratization-of-violence-in-india.html>] accessed on 09 August 2022.

¹³¹ For instance, The Expert Group Chaired by D. Bandopadhyay traced the growing violence to land alienation, poverty and lack of access to basic forest resources. See Nandini Sundar, *Subalterns and Sovereigns*, (Oxford India Press 2007) 266 citing Ministry of Home Affairs Status paper on the Naxal Problem (2006), also available at [<https://tribal.nic.in/downloads/Statistics/OtherReport/DevelopmentChallengesinExtremistAffectedAreas.pdf>] accessed on 03 August 2022.

THE SHORT BUT VIOLENT HISTORY OF CHHATTISGARH: A PRIMER ON SALWA JUDUM

A counter-insurgency operation referred to as Salwa Judum is a striking illustration of a disproportionate militaristic response by the state to combat an inherently socio-political conflict. Salwa Judum, a Gondi (local indigenous language) word meaning “peace march” or “purification hunt,” was a militia composed of members of the local population, which was mobilized and deployed by the state as part of counterinsurgency operations in southern Chhattisgarh.¹³² It was ostensibly aimed at countering Naxalite violence in the region, but it only succeeded in ripping apart the social fabric of Bastar, leading to a chaotic situation of internal armed conflict, where over 600 villages were ransacked and depopulated and their inhabitants herded into government camps, in an attempt to flush out the Naxalite militants from the area.¹³³

As the inception of Salwa Judum coincided with the signing of a Memorandum of Understanding (MoU) with the Indian multinational corporation Tata Steel, granting it large tracts of land for a steel plant, and with another agreement with the Indian multinational Essar Group for the construction of a 267 km pipeline, many believe Salwa Judum was intended to curb resistance against corporatization and aimed at displacing Adivasis as a means of acquiring their land.¹³⁴ This belief is bolstered by the timing of the first major counterinsurgency operation, as it only started after the MoU with Tata Steel was signed in 2005, despite the fact that Adivasi resistance had already been underway for several decades.

Salwa Judum’s purpose, as outlined by the District Collector, was to destabilize the Naxalite support base in the Adivasi villages and isolate them. Along the lines of the “strategic hamletting” used during the Vietnam War,¹³⁵ between June 2005 and 2007, entire villages of people in Chhattisgarh’s Dantewada district were forcibly removed by way of looting and burning villages to the ground, forcing them to live in roadside settlements officially called “relief camps.”¹³⁶ Villages that resisted joining the Salwa Judum’s anti-Naxalite rallies were burned. Men, women and even children were killed, and many women were viciously gang-raped. Within approximately two years of its initiation, Salwa Judum had reportedly burned or cleared out 644 of the 1,354 villages in Dantewada district, with hundreds of disappearances, extrajudicial killings, and incidents of sexualized violence.¹³⁷ As Kowasi Muya, a resident of Gachanpalli village in Chhattisgarh’s Dantewada district recalls:

¹³² Nandini Sundar, *The Burning Forest: India’s war in Bastar* (Juggernaut Books 2016).

¹³³ Nandini Sundar ‘Bastar, Maoism and Salwa Judum’ in Santosh Paul (ed.), *The Maoist Movement in India*, pp. 235–248. (Routledge India, 2020).

¹³⁴ Sudha Bharadwaj ‘Gravest Displacement, Bravest Resistance: The Struggle of Adivasis of Bastar, Chhattisgarh against Imperialist Corporate Landgrab’ *Sanhati* (1 June 2009) <http://sanhati.com/excerpted/1545>] accessed on 15 August 2022; Gautam Navlakha and Asish Gupta. ‘The Real Divide in Bastar’ *Economic and Political Weekly* (2009): 20–23.

¹³⁵ Nandini Sundar, ‘Interning insurgent populations’ *Economic and Political Weekly* 46, No.6(2011), pp.47–57.

¹³⁶ Nandini Sundar, *The Burning Forest: India’s war in Bastar* (Juggernaut Books 2016).

¹³⁷ Nandini Sundar, Pleading for Justice, Red Resurgence; a symposium on the Naxal/Maoist challenge to the state, 2010, 607. Available at [https://www.india-seminar.com/2010/607/607_nandini_sundar.htm last] accessed 15 September 2022.

I saw a large group of uniformed men and armed Salwa Judum members attack early on the morning of the operation. Everyone ran into the forests and when we returned, we saw the bodies. Dudhi Muye, a 70-year-old [disabled person], was found dead in the doorway of her house. Both her breasts had been hacked off with a machete. Madavi Joga, 65, had been stabbed to death. Madakam Sulla and Madavi Hadma, both between 30 and 35 years of age, were found dead outside Madakam Sullas' house.¹³⁸

In the first few months of Salwa Judum operations alone, several thousand villagers were evicted and herded into camps. Over the next few years, this number would reach 350,000.¹³⁹ Thousands of these people fled to the bordering state of Andhra Pradesh, where many continue to live as internally displaced persons.

A report published by Human Rights Watch in 2008 describes the inhuman conditions of the internally displaced persons:

By December 2007 around 49,000 villagers had been relocated to at least 24 camps in Bijapur and Dantewada districts, while many others had fled to safer parts of Chhattisgarh. An estimated 65,000 villagers had fled to adjoining states of Maharashtra, Orissa, and Andhra Pradesh to escape the conflict. Roughly 30,000–50,000 have settled in Andhra Pradesh. Three years after the forcible relocation of local populations into camps and the exodus from Chhattisgarh to neighboring Andhra Pradesh began, neither the Indian central government nor the Chhattisgarh and Andhra Pradesh state governments have developed a comprehensive policy to provide these displaced persons with protection and assistance. Most displaced persons have lost their homes, their land, most of their livestock, and their primary means of livelihood—agriculture. Those living in government-run Salwa Judum camps survive in cramped conditions and typically lack even the most basic sanitation and health care facilities [...] Villagers who fled to Andhra Pradesh also often live in dire circumstances.

¹³⁸ Nandini Sundar, 'Chhattisgarh Judgment Upends Justice, Fraternity and Basic Common Sense' *The Wire* (New Delhi 04 August 2022). [<https://thewire.in/rights/chhattisgarh-judgment-upends-justice-fraternity-and-basic-common-sense>] accessed on 22 August 2022.

¹³⁹ Peoples Union for Democratic Rights 'When the state makes war on its own people: Violation of peoples rights during the Salwa Judum (New Delhi, 17 May 2005). [https://cpjc.files.wordpress.com/2007/07/salwa_judum.pdf] accessed on 27 August 2022; Independent Citizens Initiative 'War in the heart of India' (20 July 2006) [<https://cpjc.files.wordpress.com/2007/07/ici-warintheheartofindia.pdf>] accessed on 22 August 2022; Human Rights Forum 'Death, Displacement and Deprivation; The war in Dantewada: A Report' (Hyderabad December 2006) [<https://cpjc.files.wordpress.com/2007/07/hrfdantewadareport.pdf>] accessed on 17 August 2022; Asian Center for Human Rights 'The Adivasis of Chhattisgarh: Victims of the Naxalite Movement and Salwa Judum Campaign' (New Delhi 17 March 2006) [https://cpjc.files.wordpress.com/2007/07/achr_report.pdf] accessed on 19 August 2022; Medico Friends Circle and Jan Swasthya Abhiyan, 'Where There Can Go No Doctor' (June 2007), [https://cpjc.files.wordpress.com/2007/11/mfc_report.pdf] accessed on 02 September 2022; National Commission for the Protection of Child Rights 'Report of visit to Dantewada & Khammam to Investigate Status of Health and Education of Children affected by Civil Unrest' (January 2008), [https://cpjc.files.wordpress.com/2008/04/npcr_final.pdf] accessed on 02 September 2022



LAND GRABS, MINING AND MILITARIZATION

A 2017 article describes the living conditions in the rural southern areas of Chhattisgarh:

The countryside in Bastar is dotted with camps placed every few kilometers, looming ominously behind coiled loops of barbed wires. Armed troops of men, in numbers ranging upwards of a few hundred, emerge at routine intervals from these camps and visit the neighboring villages in what are called “area domination exercises.” For many villagers—with no schools, anganwadis, public health Centre’s or ration shops close to their village, no visits by the collector, the sub-divisional magistrate, MLAs, or MPs—this is the only face of the Indian state they ever see. It is during such search and patrol missions that domination sometimes seamlessly turns to pillage and plunder, even rape and murder.¹⁴⁸

Since 2014 and the election of the BJP at the federal level, Chhattisgarh has witnessed a manifold increase in the deployment of security forces, which have further exacerbated the conflict and resulted in unprecedented levels of targeted violence, mass displacement and human rights violations. New battalions of the Central Reserves Police Force (CRPF) in South Bastar and the Border Security Force (BSF) and Seema Sasha-tra Bal (SSB) in North Bastar are announced regularly. New formations of the state police—the District Reserve Guard, the Chhattisgarh Armed Forces, the Special Task Force, the District Executive Force—are stationed throughout Bastar, and with every passing week, new paramilitary camps and fortified police stations crop up across the countryside.

There has been a steep escalation in military deployment in the area, occurring in multiple waves—in 2014,¹⁴⁹ 2016¹⁵⁰ and again in 2018—with a deployment of at least 12,000 additional personnel.¹⁵¹ A fact-finding initiative conducted in 2015 found that approximately 60,000 to 100,000 armed forces personnel had been stationed in southern Chhattisgarh.¹⁵²

- ¹⁴⁸ Isha Khandelwal and Shalini Gera, ‘Bastar: Hoping for Peace and Justice’ *Live Mint* (New Delhi 04 February 2017) [https://www.livemint.com/Politics/RH7nCZaCQJzR11Nf8Y0KMJ/Bastar-Hoping-for-peace-and-justice.html] accessed on 04 September 2022.
- ¹⁴⁹ Press Trust of India, ‘Anti-Naxal operations: Government deploys 1,000 fresh ITBP personnel in Chhattisgarh’ *The Economic Times* (New Delhi 21 June 2014) http://articles.economictimes.indiatimes.com/2014-07-21/news/51831007_1_itbp-anti-maoist-operations-anti-naxal-operations] accessed on 05 September 2022.
- ¹⁵⁰ Dipankar Ghose, ‘Bastar CRPF tribal battalion force: Game changer or Salwa Judum by another name?’ *The Indian Express* (Raipur, 18 July 2019) [https://indianexpress.com/article/india/india-news-india/chhattisgarh-crpf-tribal-battalion-maoists-issue-raman-singh-bastar-tribal-battalion-dandakaranya-battalion-2920280] accessed on 05 September 2022.
- ¹⁵¹ Rashmi Drolia, ‘Chhattisgarh: CRPF’s Bastariya Battalion ready to be commissioned with 33% women troops’ *The Times of India*, (Raipur, 18 May 2018) [https://timesofindia.indiatimes.com/city/raipur/chhattisgarh-crpf-bastariya-battalion-ready-to-be-commissioned-with-33-women-troops/articleshow/64222359.cms] accessed on 08 September 2022; Press Trust of India, ‘Anti-Naxal ops: 5,000 additional ITBP troops to be deployed in Chhattisgarh’ *The Economic Times*, (New Delhi 13 July 2018) [https://economictimes.indiatimes.com/news/defence/anti-naxal-ops-5000-additional-itbp-troops-to-be-deployed-in-chhattisgarh/articleshow/48348466.cms] accessed on 09 September 2022.
- ¹⁵² ‘Report Of The Fact-Finding Team To South Chhattisgarh’ (May 2016) [https://delhisolidaritygroup.files.wordpress.com/2021/03/report-of-the-fact-finding-team-to-south-chhattisgarh-1.pdf] accessed on 19 August 2022.

Linking to the patterns of state land appropriation and rights violations outlined in the first chapter, militarization is also a key means through which state and corporate actors in Chhattisgarh shrink space for Adivasi resistance to land grabs for natural resource projects benefiting the elite. While the state justifies militarization in the name of fighting the Naxalite insurgency, numerous “security camps” have been set up around mines and extractive development projects in order to protect them from protest by the region’s local inhabitants. According to a report in *The Hindu*, the Bhilai Steel Plant (BSP), a major steel-producing unit of the Steel Authority of India (SAIL), initiated a project to “fund construction of barracks’ for paramilitary forces to ensure security for the coming mining project at Rowghat in Kanker, central Chhattisgarh.”¹⁵³ Around 22 paramilitary camps in total fortify the Rowghat Mines.¹⁵⁴

Militarization is also a key means through which state and corporate actors in Chhattisgarh shrink space for Adivasi resistance to land grabs for natural resource projects benefitting the elite.

Since June 2015, which marked the tenth anniversary of the Salwa Judum’s start, the Chhattisgarh government has increasingly sponsored vigilante groups and recruited local Adivasi youth for its special forces battalions.¹⁵⁵ This accompanied a planned Rs. 24,000 Crore (USD 3 billion) investment in Bastar, announced by the Prime Minister in May 2015, and an increase in numbers of CRPF and other paramilitary forces already underway since 2014.

The armed conflict, which was initially confined to three districts—Bijapur, Sukma and Dantewada—eventually spread to all seven districts in the Bastar division, accompanied by a massive increase in allegations of gang rapes, other forms of sexualized violence, extrajudicial killings, and much-publicized “surrenders,” which have been widely called out as fake surrenders.¹⁵⁶

- ¹⁵³ Suvojit Bagchi, ‘Bhilai Steel Plant to ‘fund barracks’ for paramilitary forces to access ore’ (The Hindu, 7 November 2012) [https://www.thehindu.com/news/national/other-states/bhilai-steel-plant-to-fund-barracks-for-paramilitary-forces-to-access-ore/article4071637.ece] accessed 14 September 2022.
- ¹⁵⁴ Raksha Kumar, ‘In the shadow of an upcoming iron ore mine in Chhattisgarh, people live in fear of the gun’ *Scroll* (New Delhi 01 February 2016) [https://scroll.in/article/777171/in-the-shadow-of-an-upcoming-iron-ore-mine-in-chhattisgarh-people-live-in-fear-of-the-gun] accessed on 28 August 2022.
- ¹⁵⁵ Dipankar Ghose, ‘Is the Salwa Judum back?’ *The Indian Express* (Raipur 25 May 2018) [https://indianexpress.com/article/explained/is-the-salwa-judum-back-bastariya-battalion-crpf-chhattisgarh-5190001] accessed on 22 August 2022; Aman Sethi, ‘Chhattisgarh bucks Court order’ *The Hindu* (Raipur 13 August 2011) [https://www.thehindu.com/news/national/chhattisgarh-bucks-court-order/article2351607.ece] accessed on 23 August 2022.
- ¹⁵⁶ Prateek Goyal, ‘Bastar: ‘Surrendered Naxal’ dies by suicide in police custody. Villagers say she wasn’t a Naxal at all’, *News Laundry*, (New Delhi 27 February 2021) [https://www.newslaundry.com/2021/02/27/bastar-surrendered-naxal-dies-by-suicide-in-police-custody-villagers-say-she-wasnt-a-naxal-at-all] accessed on 28 August 2022; Sukanya Shantha ‘Illegal Detention, Forced Marriage: What Happens After Alleged Naxals ‘Surrender’ in Bastar?’ *The Wire* (Dantewada 08 November 2021) [https://pulitzercenter.org/stories/illegal-detention-forced-marriage-what-happens-after-alleged-naxals-surrender-bastar] accessed on 22 August 2022



As outlined in the previous chapter, the Indian state has acquired and cleared huge areas of forest land in the name of development and security without obtaining FPIC, as mandated by relevant land acquisition and forest conservation regulations. In Bastar, security forces are engaged to enable the building of wide, heavy-duty roads for mining access through Adivasi areas without their consent. According to the available data, between 1991 and 2007, 15 sq. kms of land were acquired for military purposes in Bastar alone.¹⁵⁷ Media reports suggest that in 2019–2020, 28 more security camps were established in Bastar.¹⁵⁸

In Bastar, security forces are engaged to enable the building of wide, heavy-duty roads for mining access through Adivasi areas without their consent.

Just as Adivasis in the region have continuously protested the state's exploitative mining activity, deforestation and displacement, they have also protested and fought back against the militarization deployed to carry it out. In just the past two years, there have been more than a dozen protests against the acquisition of land for security camps.¹⁵⁹ One such prominent long-running protest began in May in 2021 in Silger village in the Sukma district of Chhattisgarh and still continues to this day. Villagers, mainly youth, under the banner of "Moolvasi Bachao Andolan" (Save the Natives Movement), have been engaged in a sit-in for over a year to demand, among other things, the removal of police camps from Bastar, the restoration of mining rights to natives, an official inquiry into various fake "encounters" in Bastar, and the registration of cases against identified perpetrators.¹⁶⁰ The Indian government has tried to suppress this protest, like many in the region, with violent means. In May 2021, security forces fired upon protesting villagers from Silger in broad daylight, which led to four deaths resulting from injuries and one pregnant woman dying in the midst of the ensuing chaos.¹⁶¹

¹⁵⁷ *Report of the High-Level Committee on Socio-economic, Health and Educational Status of Tribal Communities in India* (May 2014). p. 272. New Delhi: Ministry of Tribal Affairs, Government of India.

¹⁵⁸ Press Trust of India, '28 security camps set up in Bastar in last two years' (Raipur 29 May 2021) *The Times of India* [<https://timesofindia.indiatimes.com/city/raipur/28-security-camps-set-up-in-bastar-in-last-two-years/articleshow/83056535.cms>] accessed on 25 August 2022.

¹⁵⁹ Sumedha Pal, 'Hasdeo: Protests Against Tree Felling Continue, FIR Against Activists for Rioting' (The Wire, 30 April 2022) [<https://thewire.in/environment/hasdeo-protests-against-tree-felling-continue-fir-against-activists-for-rioting>] accessed 14 September 2022, Shuchita Jha 'Hasdeo Aranya: Chhattisgarh government puts three mining projects on hold "indefinitely"' (Down To Earth, 9 June 2022) [<https://www.downtoearth.org.in/news/forests/hasdeo-aranya-chhattisgarh-government-puts-three-mining-projects-on-hold-indefinitely--83228>] accessed 14 September 2022.

¹⁶⁰ Nandini Sundar, 'In Bastar's "Shaheen Bagh", a Youth-Led Movement Quietly Persists' (The Wire, 7 July 2021) [<https://thewire.in/rights/silger-bastar-chhattisgarh-Adivasi-shaheen-bagh-crpf>] accessed 14 September 2022.

¹⁶¹ Anon, 'Chhattisgarh: Three Killed in Firing on Protest Against Sukma Security Camp' (The Wire, 19 May 2021) [<https://thewire.in/rights/chhattisgarh-three-killed-in-firing-on-protest-against-sukma-security-camp>] accessed 14 September 2022.

In a vicious cycle, the Indian state uses the indigenous struggle for their rights to land, water and resources as an excuse for further militarization which, in turn, facilitates land grabs for extractive industries and industrialization. The heavily armed forces deployed in the region, composed mostly of men from other parts of the country, lack orientation, knowledge and regard for the realities and culture of the Adivasi communities.¹⁶² Instead, their presence and the continuing armed conflict of which they are part, continue to play a role in the destruction of indigenous cultural practices and communities. There have also been instances where Adivasis gathered in their villages for cultural activities were indiscriminately fired upon by security forces. For instance, in 2013, in the village of Edesmeta in southern Chhattisgarh, security forces, without any provocation, fired upon villagers celebrating the seed-sowing festival of *beej pandum*. The eight villagers who died were later declared by the state to be insurgents, and the festival as an insurgent meeting. Nine years after the incident, a judicial commission found that all the dead were villagers and that the accusations by the police were false.¹⁶³

In a vicious cycle, the Indian state uses the indigenous struggle for their rights to land, water and resources as an excuse for further militarization which, in turn, facilitates land grabs for extractive industries and industrialization.

In the following, examples are presented of several prevalent means—sexualized violence, extrajudicial killings and oppression through the “justice” system—by which security forces violently repress Adivasi resistance to development projects in the natural resource arena that infringe upon their rights.

¹⁶² Sudeep Chakravarti, ‘When Nagaland, Chhattisgarh are joined in horror’ (Mint, 4 July 2018) [https://www.livemint.com/Opinion/qJJ40CNagNTdfoNsWz7mFJ/When-Nagaland-Chhattisgarh-are-joined-in-horror.html] accessed 14 September 2022.

¹⁶³ Anon, ‘Eight Killed in Edesmetta Firing Were Neither Maoists Nor Armed: Judicial Panel Report’ (The Wire, 15 March 2022) [https://thewire.in/rights/eight-killed-in-edesmetta-firing-were-neither-maoists-nor-armed-judicial-panel-report] accessed 14 September 2022, Anon ‘Chhattisgarh—Brief Report Of The Killing of Adivasi Civilians by CRPF at Edesmeta in Bijapur District’ (Sanhati, 28 May 2013) http://sanhati.com/articles/7058] accessed 14 September 2022.

SEXUALIZED VIOLENCE: A WEAPON OF TERROR

In Bastar, sexualized violence by the security forces is rampant. In conflict areas with heavy militarization, the use of sexualized violence as a form of punishment and intimidation is not new.¹⁶⁴ More than 99 women allege they were raped by security forces during the Salwa Judum (2005–2011), and since then, many more cases of Sexualized violence have been documented in Bastar.¹⁶⁵ A 2022 study by Survival International aptly sums up the situation:

For their central role in defending their lands, Adivasi women are being brutally repressed and abused. Sexualized violence by so-called security forces is commonplace in the highly contested areas where Adivasi people are defending their lands, and the state is working with corporates to open the areas up to mining. Adivasi people say again and again they will lay down their lives before they will give up their lands, because the cultural, spiritual, and economic connection is so strong. The state takes them at their word, killing Adivasi men, women, and children with impunity.¹⁶⁶

Between October 2015 and February 2016, more than 50 women were sexually assaulted by security forces in the Bastar region, including around 20 gang rapes.¹⁶⁷ All these incidents occurred as part of search and combing operations by the police and security forces. During these operations, the men in the village usually flee into the forests, fearing death or arrest. The women often stay behind to protect their homes and children, making themselves targets of the terror and violence unleashed by the police and security forces.¹⁶⁸ The below represent emblematic cases of such violence.

For their central role in defending their lands, Adivasi women are being brutally repressed and abused.

¹⁶⁴ The United Nations Committee on the Elimination of all forms of Discrimination Against Women (CEDAW) has said that sexualized violence is also used “as a form of punishment, particularly where women are politically active, or are associated with others who are politically active. Sexualized violence can further be used as a means of inflicting terror upon the population at large. It can shatter communities and drive people out of their homes. Sexualized violence can also be part of a genocidal strategy.”

¹⁶⁵ Chhattisgarh Fact Finding Report *Women Against Sexual Violence and State Repression* [online]. Available from: [https://wssnet.org/states/chhattisgarh] accessed 14 September 2022.

¹⁶⁶ Jo Woodman (ed.), ‘Brutalized for Resistance: The Assault on Indigenous Women in Modi’s India’, p. 23, Survival International, [https://assets.survivalinternational.org/documents/2057/Brutalized_for_resistance.pdf] accessed on 9 September 2022.

¹⁶⁷ Women against Sexual Violence and State Repression (2017) *Bearing Witness: Sexual Violence in South Chhattisgarh*, India.

¹⁶⁸ Women against Sexual Violence and State Repression (2017) *Bearing Witness: Sexual Violence in South Chhattisgarh*, India.

EXTRAJUDICIAL KILLINGS

Extrajudicial killings in Chhattisgarh in the form of “fake encounters” or “encounter killings” refer to incidents in which police and state security forces kill a person and later present the deceased as an insurgent and the killing as an act of self-defense.¹⁷² Such extrajudicial killings are a common tactic used by the local police and the armed forces in Chhattisgarh, and are particularly rampant in Bastar. Several emblematic cases are discussed below, which have been found to be “fake encounters” by lawyers, journalists and human rights activists.



¹⁷² Ashutosh Bhardwaj, ‘Extrajudicial Killings: The Sordid Saga Of Fake Encounters And The Long Ordeal For Justice’ (Outlook, 4 August 2022) [https://www.outlookindia.com/national/extrajudicial-killings-the-sordid-saga-of-fake-encounters-and-the-long-ordeal-for-justice-news-214163] accessed 14 September 2022. Anon ‘Above 100 tribals “killed” in fake encounters in 7 months in Bastar, Chhattisgarh, claims Delhi civil rights group’ (Counterview, 4 October 2016) [https://www.counterview.net/2016/10/above-100-tribals-killed-in-fake.html] accessed 14 September 2022. Bela Bhatia ‘Three Bullets and Three Women: A “Fake Encounter in Bastar”’ (The Wire, 26 April 2019) [https://thewire.in/rights/bastar-naxals-maoists-security-forces] accessed 14 September 2022.

5 JULY 2016

*Seetu Hemla, Village Palnar, Police Station Gangaloor, District Bijapur*¹⁷³
According to the mother and wife of Seetu Hemla, on 5 July 2016, he was ploughing his field when security forces suddenly encircled him, tied his hands behind him, and dragged him away to the nearby jungle, in full view of his family members and other villagers. His family was badly beaten when they tried to follow. They heard Seetu’s cries coming from the jungle followed by the sound of gunfire. The villagers recovered the dead body of Seetu the next day from the Bijapur District Hospital. According to testimonies of eyewitnesses, the body had several gunshot wounds and was badly mutilated, suggesting that he was subjected to torture. A written complaint was sent to the Gangaloor Police Station, but the registration of the FIR was never confirmed.¹⁷⁴

31 JANUARY 2016

*Vanjam Shanti (age 13) and Siriyam Pojje (age 14), Village Palamagdu, Dornapal Tehsil, District Sukma*¹⁷⁵
Police claim that two Naxalite women were killed after an hour-long gun battle on 31 January 2016. In a local newspaper, the police are quoted as saying that the two Naxalite women were wearing saris and could not run and, therefore, fell into a ditch and died. An eight-member fact-finding team of the All India People’s Forum visited four districts of Chhattisgarh between 8 and 11 June 2016 and found that, in fact, the police had killed the two minors. According to the mother of Siriyam Pojje, her daughter and Vanjam Shanti went to feed the hens and to have a bath in the river. On the way, the police shot dead both the girls. Vanjam Shanti’s father also confirmed that both girls lived in the village and had no connection with Naxalites.¹⁷⁶

15 AUGUST 2016

*Arjun Kashyap, Village Chandameta, District Bastar*¹⁷⁷
Arjun Kashyap was forcibly picked up by the police from his house on the night of 15 August 2016 and, according to his family, killed in cold blood by the security forces. Arjun was a 19-year-old youth, who was already battling false charges of being a Naxalite in a case in which he had been arrested in May 2015. After being illegally detained at the Jagdalpur Central Jail and the Jagdalpur Juvenile Home, he was granted bail in December 2015. Since that time, he had frequently been present at the Juvenile Justice Board, never missing a hearing in his case. While his case was still pending, he was picked up and killed by security forces.

¹⁷³ Anon, ‘Challenging State Impunity: A PIL on Extra-Judicial Killings in Bijapur, Chhattisgarh’ (Sanhati, 7 October 2016) <http://sanhati.com/excerpted/17774> accessed 14 September 2022.
¹⁷⁴ Lilly Paul, ‘Extrajudicial Killings: Caught in the Crossfire’ (India Legal, 24 February 2018) [https://www.indialegallive.com/commercial-news/states-news/extrajudicial-killings-in-chhattisgarh-caught-in-the-crossfire] accessed 14 September 2022. Raksha Kumar ‘Extrajudicial killings: How two teenaged girls in Chhattisgarh are leading a fight for justice’ (Scroll.in, 10 October 2016) [https://scroll.in/article/818195/extrajudicial-killings-how-two-teenaged-girls-in-chhattisgarh-are-leading-a-fight-for-justice] accessed 14 September 2022.
¹⁷⁵ Anon, ‘Bastar: Where the constitution stands suspended’ (4 August 2016) <http://aipf.online/2016/08/04/bastar-where-the-constitution-stands-suspended> accessed 14 September 2022.
¹⁷⁶ Anon, ‘Challenging State Impunity: A PIL on Extra-Judicial Killings in Bijapur, Chhattisgarh’ (Sanhati, 7 October 2016) <http://sanhati.com/excerpted/17774> accessed 14 September 2022.
¹⁷⁷ Malini Subramaniam, ‘The killing of a teenage undertrial shows Bastar is a dangerous place to be young’ (Scroll.in, 24 August 2016) [https://scroll.in/article/814621/the-killing-of-a-teenage-undertrial-shows-bastar-is-a-dangerous-place-to-be-young] accessed 14 September 2022.

OPPRESSION THROUGH THE CRIMINAL “JUSTICE” SYSTEM IN BASTAR

Human rights violations in Bastar, as in any highly militarized conflict zone, are numerous. Different facets of the criminal justice system—from the police to the administration, the public prosecutors, and the judiciary—all systematically work to silence Adivasi movements and help perpetuate a reign of state terror over the Adivasi communities of the region.

Arbitrary arrests, custodial violence, fabricated cases, never-ending trials and a general disregard for the rights of the accused in trials are commonplace in Chhattisgarh.¹⁷⁸ Within Chhattisgarh, the Adivasi-dominated districts of south Bastar have the highest rates of incarceration.¹⁷⁹ Nearly every village in Bastar has reported similar tales in which a large posse of uniformed men comb through their village, arbitrarily pick up their young men, and sometimes women, on charges of being Naxalite.¹⁸⁰ These individuals are often then taken into filthy, overcrowded pens at the state prisons, where they are left to languish for years. Many are eventually acquitted, but only after long, protracted trials. Other stories of not-so-arbitrary arrests include people being picked up as Naxalites for asking inconvenient questions.¹⁸¹

Arbitrary arrests, custodial violence, fabricated cases, never-ending trials and a general disregard for the rights of the accused in trials are commonplace in Chhattisgarh.

Common threads in all these stories of incarceration include the rupturing of social and familial ties that accompany the arrests, the long and arduous trips to faraway jails, the indebtedness that invariably follows, and the agony of the slow legal processes as the families wait, often for many years, not to mention the difficulty of stigma and reintegration when the family member is finally released. In this sense, individual incarcerations function as a form of collective punishment against families and entire communities.

- ¹⁷⁸ Human Rights Watch (HRW), ‘*Being Neutral is Our Biggest Crime*’: *Government, Vigilante, and Naxalite Abuses in India’s Chhattisgarh State*’ (New York July 2008) [https://cpjc.files.wordpress.com/2008/08/hrw_sj_july08.pdf] accessed on 02 September 2022
- ¹⁷⁹ Jagdalpur Legal Aid Group (2018) *Legal Aid in Conflict Zones of Bastar* [online]. Available from: <http://www.slic.org.in/uploads/2018/03/Legal-Aid-in-Conflict-Zones-Bastar-JAGLAG.pdf>] accessed 14 September 2022.
- ¹⁸⁰ Prateek Goyal, ‘For Dantewada’s Adivasis, jail is only a false allegation’ (Newslaundry, 20 June 2020) [https://www.newslaundry.com/2020/06/20/for-dantewadas-Adivasis-jail-is-only-a-false-allegation-away] accessed 14 September 2022.
- ¹⁸¹ Sumedha Pal, ‘One Year After Arrest, Organisations Demand Activist Hidme Markam’s Release’ (The Wire, 9 March 2022) [https://thewire.in/rights/one-year-after-arrest-organisations-demand-Adivasi-activist-hidme-markams-release] accessed 14 September 2022.

As demonstrated by the data and case studies of the Jagdalpur Legal Aid Group (JAGLAG), a lawyer collective that operated in the Bastar region between 2013 and 2020, long periods of pretrial detention seem to be used as an extrajudicial form of punishment against Adivasis whom the criminal justice system cannot otherwise convict.¹⁸² The group’s research shows that, for Adivasis in Chhattisgarh, the presumption of innocence is virtually overturned, as hundreds of those in pretrial detention are denied bail and other concomitant forms of relief by the judiciary, despite insufficient evidence against them to secure a conviction. Moreover, this lack of evidence is often accompanied by absurd fabrications against the accused.¹⁸³

After remaining incarcerated for protracted periods awaiting their trials, most are eventually acquitted at trial.¹⁸⁴ As of August 2022, there were over 3,000 Adivasis in pretrial detention in Bastar Division jails, including the central jail at Jagdalpur, district jails at Dantewada and Kanker, and sub-jails at Bijapur, Sukma and Narayanpur.

Many were arrested under the Unlawful Activities Prevention Act, 1967; the Chhattisgarh Special Public Security Act, 2005; the Arms Act, 1959; the Explosive Substances Act; and stringent sections of the Indian Penal Code, 1960.¹⁸⁵ Many arrests are carried out under ordinary laws employed in an extraordinary fashion. Despite there being no provision prohibiting bail in cases brought under these ordinary laws, bail is rarely granted in such cases in Bastar. Every Adivasi villager in Bastar is automatically treated with suspicion, while acts intrinsic to the local culture—such as gatherings in the forest, ceremonial hunting expeditions, possessing a bow and arrows and agricultural tools—are criminalized ipso facto.

For instance, in a 2013 case in which 11 villagers were arrested and two killed by security forces in the village of Chimlipenta, Bijapur district, the list of “deadly” weapons recovered from the scene included four bows with a single arrow each, four knives, one knife shaped like a sickle, one trowel, and one large utensil. The villagers were charged with serious violations of the Arms Act, 1959, and the Unlawful Activities (Prevention) Act, 1960 (UAPA).¹⁸⁶

- ¹⁸² Anon, ‘Undertrial Prisoners in the Bastar Division’ (Sanhati, 6 November 2015) <http://sanhati.com/excerpted/15368/?fbclid=IwAR3D7HGkE1VTfctz0XZu9ZzY0s4CEIo6FnBQkTqCzQmrFIWdtKcxJFlcDf8>] accessed 14 September 2022.
- ¹⁸³ Malini Subramaniam, ‘Chhattisgarh police claim they arrested 15 Maoists. Villagers say they picked up wedding party’ (Scroll.in, 23 May 2018) [https://scroll.in/article/879924/chhattisgarh-police-claim-they-arrested-15-maoists-villagers-say-they-picked-up-wedding-party] accessed 14 September 2022, Prateek Goyal ‘In Bastar, Adivasis are jailed for sharing a first name with suspected Maoists’ (Newslaundry, 24 June 2020) [https://www.newslaundry.com/2020/06/24/in-bastar-Adivasis-are-jailed-for-sharing-a-first-name-with-suspected-maoists] accessed 14 September 2022.
- ¹⁸⁴ Nidhi Sharma, ‘Justice system works against tribals in Bastar’ (The Economic Times, 8 January 2016) [https://economictimes.indiatimes.com/news/politics-and-nation/justice-system-works-against-tribals-in-bastar/articleshow/50490694.cms?from=mdr] accessed 14 September 2022; Bela Bhatia ‘Bastar’s wheels of justice grind exceedingly slow’ (The Hindu, 2 March 2022) [https://www.thehindu.com/opinion/lead/bastars-wheels-of-justice-grind-exceedingly-slow/article65156574.ece] accessed 14 September 2022.
- ¹⁸⁵ Bela Bhatia, ‘Adivasi Life In Bastar: Burkapal Is A Tip Of The Repression’ (Outlook, 6 August 2022) [https://www.outlookindia.com/national/burkapal-tip-of-the-repression-news-211927] accessed 14 September 2022.
- ¹⁸⁶ Based on the case documents shared by case lawyers, on file with the authors.

Special counter-terrorism laws ostensibly aimed at combating Naxalism have expanded and enabled the excesses committed against Adivasis by special forces in Chhattisgarh, while also ensuring impunity for them. For instance, the Chhattisgarh Special Public Security Act, 2005 (CSPSA), allows for detention up to three years in cases of “unlawful activity.” The definition of unlawful activity has been vastly expanded by the CSPSA to “any activity that might have a *tendency* to pose an obstacle to maintenance of public order or administration of law.”¹⁸⁷ Hence, under this law, even acts that have unintentionally benefitted an “unlawful organization” are criminalized. Journalists,¹⁸⁸ filmmakers,¹⁸⁹ and even school children¹⁹⁰ have fallen under the arbitrary scope and application of this law.

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The Unlawful Activities (Prevention) Act, 1960 (UAPA), last amended in 2019, is another such law which, in alleged cases of “unlawful activities,” extends pretrial detention from three months to six months, police custody from 15 days to 30 days, and leads to a denial of bail in most cases, while also vastly enlarging the meaning of a “terrorist act” or a “terrorist organization.”¹⁹¹ All those charged with terrorist activity under these provisions face long periods of incarceration without bail and long pretrial detention.¹⁹² The fate of the residents of Burkapal village is emblematic of the broader pattern of repression through the criminal justice system experienced by Adivasis in Chhattisgarh.¹⁹³

¹⁸⁷ Chhattisgarh Special Public Security Act Section 2(e).

¹⁸⁸ Anon, ‘Jailed for Over a Year, Chhattisgarh Journalist Santosh Yadav Granted Bail (The Wire, 27 February 2017) [https://thewire.in/law/chhattisgarh-journalist-santosh-yadav-granted-bail] accessed 14 September 2022.

¹⁸⁹ Ajoy Ashirwad Mahaprashasta, ‘A law and its victim’ (Frontline, 7 November 2008) [https://frontline.thehindu.com/social-issues/article30198228.ece] accessed 14 September 2022.

¹⁹⁰ Ejaz Kaiser, ‘Lawyers, students, journalist on “fact-finding visit” arrested, jailed under Chhattisgarh Security Act’ (The New Indian Express, 26 December 2016) [https://www.newindianexpress.com/nation/2016/dec/26/lawyers-students-journalist-on-fact-finding-visit-arrested-jailed-under-chhattisgarh-security-a-1553271.html] accessed 14 September 2022.

¹⁹¹ The UN mandate holders have expressed concerns regarding the Unlawful Activities (Prevention) Act and its contravention of international standards on counter-terrorism [online] Available from: [https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25219,] accessed 14 September 2022.

¹⁹² Abhilasha Chattopadhyay, ‘Long trial Process tends to become punishment: Former Justices Critique Bail and Jail under UAPA’ (News Click, 6 July 2021) [https://www.newsclick.in/long-trial-process-tends-become-punishment-justices-critique-bail-jail-uapa] accessed 14 September 2022; Gautam Bhatia ‘UAPA’s inherently flawed architecture and the role of courts’ [https://www.hindustantimes.com/opinion/uapas-inherently-flawed-architecture-and-the-role-of-courts-101626016898497.html] accessed 14 September 2022; Hannah Ellis-Petersen and Aakash Hassan ‘How a terrorism law in India is being used to silence Modi’s critics’ (The Guardian, 10 December 2021) [https://www.theguardian.com/world/2021/dec/10/how-terrorism-law-india-used-to-silence-modis-critics] accessed 14 September 2022.

¹⁹³ Bela Bhatia, ‘Adivasi Life In Bastar: Burkapal Is A Tip Of The Repression’ (Outlook, 6 August 2022) [https://www.outlookindia.com/national/burkapal-tip-of-the-repression-news-211927] accessed 14 September 2022.

BURKAPAL VILLAGE, DANTEWADA DISTRICT

In April 2017, 25 security men were killed and seven injured in a Naxalite encounter. Right after the incident, 121 villagers, mostly young men, were arrested. The accused were tried under special terrorism laws¹⁹⁴ and, despite no proof of guilt and no presentation of any evidence connecting those arrested to the killings, bail was denied to those accused at both the District and the High Court.¹⁹⁵ On 15 July 2022, all 121 accused were acquitted after serving five years in jail. One of the men held in pretrial detention, Dodi Manglu, died in jail on 2 October 2021, while still awaiting trial. After their release, many of the villagers reported that their lives had been completely destroyed. Many lost their loved ones, their livelihoods,¹⁹⁶ and “returned to worse economic woes, broken homes, sick children and parents, with little or no resources to rebuild for the future, and no hopes of the state helping them compensate for the gross injustice they have suffered.”¹⁹⁷

The accused were tried under special terrorism laws and, despite no proof of guilt and no presentation of any evidence connecting those arrested to the killings, bail was denied to those accused at both the District and the High Court.

¹⁹⁴ Namely the Indian Penal Code, the Arms Act, the Explosive Substances Act and the Chhattisgarh Special Public Security Act and the Unlawful Activities Prevention Act.

¹⁹⁵ Anon, ‘Burkapal Naxal Attack: Court Acquits 121 Tribal Persons for Lack of Evidence’ (The Wire, 17 July 2022) [https://thewire.in/law/burkapal-naxal-attack-121-tribal-persons-acquitted] accessed 14 September 2022

¹⁹⁶ Prateek Goyal, ‘False cases: How Chhattisgarh jailed 121 Adivasis for 5 years for a crime they didn’t commit’ (NewsLaundry, 21 July 2022) [https://www.newsLaundry.com/2022/07/21/false-cases-how-chhattisgarh-jailed-121-Adivasis-for-five-years-for-a-crime-they-didnt-commit] accessed 14 September 2022.

¹⁹⁷ Mohammad Sartaj Alam, ‘After 5 Years in Jail, 121 Chhattisgarh Adivasis Are Set Free But Find Freedom Hard To Regain’ (Article 14, 8 September 2022) [https://article-14.com/post/-after-5-years-in-jail-121-chhattisgarh-Adivasis-are-set-free-but-find-freedom-hard-to-regain-6319693acc3b9] accessed 14 September 2022.

A STATE OF IMPUNITY

Despite such large-scale rights violations over a long period of time, the response by law enforcement agencies, as well as the courts at all levels, has been inadequate at best and enabling of impunity at worst. In the last three decades of the armed conflict, not a single security officer or Salwa Judum member has ever been prosecuted for the crimes they committed against Adivasi individuals or communities in the region. A recent judgement by the Supreme Court shows further decline in the independence of the judiciary in India.

In July 2022, the Supreme Court of India dismissed a plea filed by Himanshu Kumar, a human rights activist, and 11 family members of the victims seeking an independent investigation into extrajudicial killings by security forces in 2009.¹⁹⁸ The Supreme Court accepted the police's story and disregarded the facts and testimonies of other co-petitioners who were family members of the deceased. The Supreme Court also imposed a fine on one of the human rights activists who was the petitioner in the case for "levelling false charges against security forces." The Supreme Court further permitted, and indeed encouraged, the state to file charges against him for bringing these charges against the security forces.¹⁹⁹

The Supreme Court order implies that whoever files a petition against the state for committing human rights violations and loses, can then be prosecuted for leveling "false" charges against the state. As scholar Gautam Bhatia, in his analysis of this and similar such judgements by the Supreme Court, writes:

This phenomenon of judicial rule by decree, of orders without reason—the language of the executive, in other words—is why, in a previous post, I referred to the Court led by the previous Chief Justice as an "Executive Court": an institution that speaks the language of the executive and has become indistinguishable from the executive.²⁰⁰

The impact of this judgement will extend to other victims and activists who have filed writ petitions demanding inquiry into other extrajudicial killings and will discourage future challenges to state violations.²⁰¹

¹⁹⁸ Anon, 'SC Fines Activist Rs 5 Lakh for "False Charges" in Chhattisgarh Tribals' Killing Case' (The Wire, 14 July 2022) [https://thewire.in/law/sc-fines-activist-rs-5-lakh-for-false-charges-in-chhattisgarh-tribals-killing-case] accessed 14 September 2022.

¹⁹⁹ Nandini Sundar, 'Chhattisgarh Judgement Upends Justice, Fraternity and Basic Common Sense' (The Wire, 4 August 2022) [https://thewire.in/rights/chhattisgarh-judgment-upends-justice-fraternity-and-basic-common-sense] accessed 14 September 2022.

²⁰⁰ Gautam Bhatia, 'The Executive('s) Court: Notes on the Legacy of Justice A.M. Khanwilkar' (Indian Constitutional Law and Philosophy, 29 July 2022) [https://indconlawphil.wordpress.com/2022/07/29/the-executives-court-notes-on-the-legacy-of-justice-a-m-khanwilkar] accessed 14 September 2022.

²⁰¹ *Suneeta Pottam vs. State of Chhattisgarh* (2016), High Court of Chhattisgarh W.P (PIL) No. 82 of 2016 [online] Available from: <http://sanhati.com/wp-content/uploads/2016/10/Writ-on-encounters-2.pdf>] accessed 14 September 2022.

Shrinking Space in Chhattisgarh

Civil society under pressure

In the context of the dispossession, corporate land grabs and environmental degradation facing the Adivasis in Chhattisgarh, affected communities and organized civil society perform vital work in monitoring and collecting information on plans for and impacts of extractive projects and infrastructure construction on the ground. They also play a key role in challenging rights violations, by demanding transparency and accountability, organizing demonstrations, mounting legal challenges, and shaping public opinion.

When it comes to protecting Adivasis' historical claims and constitutional guarantees to autonomy over *jal, jangal, jameen* (water, forest, and land), civil and political rights to free speech, association, assembly and democratic participation are critical. Since the early years of the formation of the state of Chhattisgarh, however, civil and political rights have been undermined through heavy militarization; the criminalization of speech, association and assembly; as well as illegal threats, coercion, and targeting of movement leaders and activists.

The previous chapters have already presented numerous examples of the ways in which civil society in Chhattisgarh—whether in the form of Adivasi activists and community groups, or lawyers, journalists, and human rights defenders—have come under pressure in their efforts to enforce Adivasi rights. This section explicitly addresses how shrinking civic space impacts Adivasi struggles and presents further concrete examples.

ACCUSATIONS OF NAXALISM AND TERRORISM CHARGES

Throughout Chhattisgarh, Adivasi leaders, trade union activists, lawyers, journalists and researchers continue to be targeted by state and vigilante violence.²⁰² Rather than provide protection for those targeted, the state often employs an ambiguous definition of Naxalism in order to criminalize various political actors and people who choose to challenge oppressive state rule as "terrorists."

²⁰² Blackout in Bastar: Human Rights Defenders Under Threat *Amnesty International India* [online] Available from: <https://www.slideshare.net/AmnestyInternationalIndia/blackout-in-bastar-human-rights-defenders-under-threat> [accessed 14 September 2022], Kumkum Dasgupta, 'Why Chhattisgarh is India's Hall of Shame' (Hindustan Times, 20 April 2016) [https://www.hindustantimes.com/analysis/chhattisgarh-is-india-s-hall-of-shame/story-w3BBzInBEoB3QeufR32JN.html] accessed 14 September 2022.

Laws, such as the Unlawful Activities (Prevention) Act (UAPA) and the Chhattisgarh Special Public Security Act (CSPSA), empower the state to declare associations as unlawful “terrorist organizations,” thus allowing them to ban their operation and criminalize a wide range of political rights. In recent years, this has been accompanied by political rhetoric that enflames animosity toward activists and lawyers by branding them as anti-national or anti-development.

In the past, individuals including school teacher and activist Soni Sori,²⁰³ journalist Lingaram Kodopi,²⁰⁴ pediatrician and human rights activist Dr. Binayak Sen,²⁰⁵ and documentary filmmaker Ajay TG²⁰⁶ have been arrested on terrorism charges for allegedly being Naxalites or Naxalite sympathizers. Badri Gawde, one of the leaders of the local movement *Rowghat Sangharsh Samiti* (Rowghat Struggle Committee), formed to protest against the upcoming Rowghat Mines and Railway Lines, attempted to raise awareness of the plight of the villagers by reaching out to academics and civil society organizations in the hope that they might mobilize to prevent the acquisition. Likely as a result of his efforts he was arrested on 24 January 2014 for allegedly being a Naxalite conduit.²⁰⁷

Examples of such state criminalization of civil society actors are numerous. Somaru Nag, a journalist who frequently covered rural issues including development and access to water and electricity in the region, was arrested by plainclothes officers at his family mobile phone shop in the outskirts of Darbha town. His family was not notified of his arrest until three days later. He was likewise alleged to be a Naxalite.²⁰⁸ Two months later, on 29 September 2015, freelance journalist Mr. Santosh Yadav was arrested in Darbha, District Bastar. He was charged under the Unlawful Activities Prevention Act, 1967 after covering a story regarding alleged false arrests of five Adivasi men.²⁰⁹

- ²⁰³ Anon, ‘Chhattisgarh: Rights Activist Soni Sori Acquitted in 2011 Sedition Case’ (The Wire, 16 March 2022) [https://thewire.in/rights/chhattisgarh-rights-activist-soni-sori-acquitted-in-2011-sedition-case] accessed 14 September 2022.
- ²⁰⁴ Anon, ‘Statements concerning the arrest of Lingaram Kodopi by the Chhattisgarh Police’ (Sanhati, 15 September 2011) [http://sanhati.com/articles/4120/] accessed 14 September 2022.
- ²⁰⁵ Ramesh Gopalakrishnan ‘The fate of Dr Binayak Sen will help to show the real India’ (Amnesty International, 8 February 2011) [https://www.amnesty.org/en/latest/campaigns/2011/02/the-fate-of-dr-binayak-sen-will-help-to-show-the-real-india/] accessed 14 September 2022.
- ²⁰⁶ Anon, ‘Who is Ajay TG? Political arrests and the tightening noose’ (Sanhati, 12 May 2008) [http://sanhati.com/news/778/] accessed 14 September 2022.
- ²⁰⁷ Riddhi Pandey, ‘Tribal Communities Oppose Raoghat Iron Ore Mine in Chhattisgarh to Protest Forestland’ (Land Conflict Watch, 4 October 2016) [https://www.landconflictwatch.org/conflicts/raoghat-iron-ore-mines] accessed 14 September 2022; Anon, ‘Raoghat mines in Bastar: Iron in their souls’ (Hindustan Times, 30 March 2014) [https://www.hindustantimes.com/india/raoghat-mines-in-bastar-iron-in-their-souls/story-wh0f6njppQ5tR0lsHAHfIM.html] accessed 14 September 2022.
- ²⁰⁸ Chitrangada Choudi, ‘Arrested, tortured, jailed in South Bastar’ (The Hoot, 8 October 2015) [http://asu.thehoot.org/free-speech/media-freedom/arrested-tortured-jailed-in-south-bastar-8956] accessed 14 September 2022.
- ²⁰⁹ Santosh Yadav Acquitted of All Charges *Front Line Defenders* [online]. Available from: https://www.frontlinedefenders.org/en/case/santosh-yadav-acquitted-all-charges [accessed 14 September 2022]



The same law was the basis for the arrest of 28-year-old Adivasi woman Hidme Markam.²¹⁰ She is the convenor of the *Jail Bandi Rihai Committee* (prisoners release committee), a platform demanding the release of thousands of Adivasis falsely implicated in cases, who have been branded as Naxalites and incarcerated in pretrial detention for years. Hidme has also been a part of the movement to save *Nandraj Pahad*, a sacred Adivasi hill under threat of destruction by corporations like Adani Enterprises Limited. In a case involving her targeting by the state through extralegal spyware, the well-known Chhattisgarh-based activist and lawyer Sudha Bharadwaj was also arrested on 28 August 2018 under the Unlawful Activities Prevention Act, 1967.²¹¹

The weaponization of anti-terror legislation to restrict space for the otherwise lawful exercise of civil and political rights is demonstrative of a broader hostility towards all forms of opposition to the state's development agenda, in Chhattisgarh and across India more broadly.

INTIMIDATION, HARASSMENT AND PHYSICAL ATTACKS

A 2016 sting operation conducted by a national news channel revealed that local vigilante groups had been organized and encouraged by the police to intimidate and obstruct the work of journalists, human rights activists and lawyers active in Chhattisgarh, particularly those working to expose human rights violations committed by the security forces.²¹² Earlier that year, members of the lawyers collective JAGLAG and journalist Malini Subramaniam, who had been reporting on extrajudicial killings, fake surrenders and sexualized violence in the region, were targeted for their work.²¹³ They were all subjected to intense harassment, including physical intimidation, shouting threats in unison, and stone pelting from local vigilante groups such as Samajik Ekta Manch²¹⁴ and Naxal Peedith Sangharash Samiti.²¹⁵ Vigilante groups have also targeted academics, such as Dr. Bela Bhatia, a senior scholar who has done extensive research on Adivasi issues and was a member of the *Planning Commission Working Group on Development Challenges in Left-wing Extremist Affected Area*.²¹⁶

- ²¹⁰ Sukanya Shanta, 'When Process Is Punishment: Hidme Markam's Activism and the Sketchy Cases Against Her' (The Wire, 5 April 2021) [https://thewire.in/rights/hidme-markam-chhattisgarh-arrest-Adivasi-rights] accessed 14 September 2022.
- ²¹¹ Deepak Tiwari, 'Sudha Bharadwaj: Arrested activist who led legal fight against Adani's mines' (The Week, 7 September 2018) [https://www.theweek.in/news/india/2018/09/07/sudha-bharadwaj-arrested-activist-legal-adani-mines.html] accessed 14 September 2022.
- ²¹² Anon, 'Chhattisgarh vigilante outfit Samajik Ekta Manch dissolved' (Scroll.in, 15 April 2016) [https://scroll.in/latest/806715/chhattisgarh-vigilante-outfit-samajik-ekta-manch-dissolved] accessed 14 September 2022; Anon 'India Today Impact: Chhattisgarh vigilante outfit Samajik Ekta Manch dissolved, CM Raman Singh orders probe' (India Today, 16 April 2016) [https://www.indiatoday.in/india/story/india-today-impact-chhattisgarh-vigilante-outfit-samajik-ekta-manch-dissolved-318206-2016-04-15] accessed 14 September 2022.
- ²¹³ Dipankar Ghose, 'Chhattisgarh: Police direct owners to evict Jagdalpur Legal Aid Group, journalist' (Indian Express, 19 February 2016) [https://indianexpress.com/article/india/india-news-india/chhattisgarh-police-direct-owners-to-evict-jagdalpur-legal-aid-group-journalist-of-accommodation/] accessed 14 September 2022.
- ²¹⁴ Anon, 'India Today Impact: Chhattisgarh vigilante outfit Samajik Ekta Manch dissolved, CM Raman Singh orders probe' (India Today, 15 April 2016) [https://www.indiatoday.in/india/story/india-today-impact-chhattisgarh-vigilante-outfit-samajik-ekta-manch-dissolved-318206-2016-04-15] accessed 14 September 2022.
- ²¹⁵ Sundar N. (2016) *The Burning Forest: India's War Against the Maoists*. India: Verso.
- ²¹⁶ Raksha Kumar, 'As Bastar mob hounds researcher Bela Bhatia out of her home, little has changed for activists here' (Scroll.in, 24 January 2017) [https://scroll.in/article/827500/as-bastar-mob-hounds-researcher-bela-bhatia-out-of-her-home-little-has-changed-for-activists-here] accessed 14 September 2022.

Activists have been subjected to especially violent attacks. On 20 February 2016, three men put an unknown substance on tribal rights activist Soni Sori's face which caused severe burns.²¹⁷ The following year, a community leader Jailal Rathia who challenged the irregular acquisition of Adivasi land in Chhattisgarh, died as a result of what his family suspect was a deliberate poisoning.²¹⁸

The violence also extends beyond targeting of individuals to more widespread suppression of broader civic action. In May 2021, the Chhattisgarh police fired at an assembly of protestors against the establishment of a police camp in Silger, Sukma district. The shooting by police led to the death of three Adivasi men: Kawasi Wagha, Korsa Bhima and Uike Murali. A team of lawyers and journalists were later prevented from visiting the affected communities on a fact-finding mission.²¹⁹

Furthermore, activists from Chhattisgarh working on Adivasi rights and land rights have been strategically targeted by the state through spyware like Pegasus and NetWire.²²⁰ Spyware creates a chilling effect on expression and assembly by sowing constant doubt as to whether one is doing enough to stay safe on digital devices. Its ubiquity also breeds distrust regarding communication and collaboration with others, increasing costs to social movements in terms of time and money spent in defense against existing or anticipated attacks. For activists like Sudha Bharadwaj, it can also turn their use of technology into a ticket to jail, when digital activity and information collected through unregulated means is accepted as evidence in court.

This small sample of exemplary cases sketches the breadth of means through which powerful state and corporate actors shrink space for civil society action in Chhattisgarh. By examining how "space" is shrinking for civil society, it becomes ever more apparent that emphasis must placed on the interconnectedness of causes, mechanisms and effects rather than isolated incidents of powerful actors exerting such pressures. Such practices are becoming increasingly prevalent around the world, particularly in the natural resource arena. Activists and scholars have noted that when civil society actors make claims about the use of natural resources across various contexts, they face a similar arsenal of the threats noted above, ranging from unfounded criminal investigations to surveillance, defamation, restrictions on demonstrations, and more.²²¹

- ²¹⁷ Anon, 'India tribal activist Soni Sori attacked with chemicals' (BBC News, 21 February 2016) [https://www.bbc.com/news/world-asia-india-35624548] accessed 14 September 2022.
- ²¹⁸ Anon, 'Jailal Rathia' (Business & Human Rights Resource Centre, 16 March 2017) [https://www.business-humanrights.org/en/latest-news/jailal-rathia/] accessed 14 September 2022.
- ²¹⁹ Anon, 'Silger police firing: Independent observers point out irregularities in Chhattisgarh police account' (Scroll.in, 27 May 2021) [https://scroll.in/latest/995932/silger-police-firing-independent-observers-point-out-irregularities-in-account-of-authorities] accessed 14 September 2022.
- ²²⁰ Anon, 'Pegasus Project: 174 Individuals Revealed By The Wire On Snoop List So Far' (The Wire, 4 August 2021) [https://thewire.in/rights/project-pegasus-list-of-names-uncovered-spyware-surveillance] accessed 14 September 2022; Anon 'India: Human Rights Defenders Targeted by a Coordinated Spyware Operation' (Amnesty International Blog, 15 June 2020) [https://www.amnesty.org/en/latest/research/2020/06/india-human-rights-defenders-targeted-by-a-coordinated-spyware-operation/] accessed 14 September 2022.
- ²²¹ C. Terwindt and C. Schliemann, Tricky Business: Space for Civil Society in Natural Resource Struggles (2017), Heinrich Böll Foundation/European Center for Constitutional and Human Rights, https://www.ecchr.eu/fileadmin/Publikationen/Tricky_Business.pdf, accessed 14 September 2022.

Conclusion

Adivasi communities represent a substantial proportion of the Indian population with a distinct culture and deep connection to *jal, jangal, jameen* (water, forest, land). Like all marginalized communities in India, Adivasis have witnessed gross violations of their rights since the country's foundation, which for them has again accelerated since the neoliberal turn in the 1990s. Meanwhile, all branches of the Indian state—the executive, the judiciary and the parliament—have remained apathetic or actively opposed to their plight.

The development model based on economic policies of liberalization, privatization and globalization has led to a huge drive by the state to transfer resources, particularly land and forests that are critical for the livelihood and survival of the Adivasi people, to corporations for exploitation of mineral resources for profit, causing enormous and irreversible damage to the environment.

The past decades have witnessed the systematic dispossession of Adivasis and environmental destruction in Chhattisgarh due to large-scale mining and other development projects. Recently, there has been an escalation in the dilution of legal and constitutional norms that extend protection to the land and resource rights of Adivasis, as well as the regulatory framework relating to environmental protection. These dilutions not only enable greater dispossession, but also operate retrospectively to condone previous illegalities by private corporations and other actors. Protest and opposition to such laws, policies and executive action have invited a heavy-handed response from the central and state governments, in the form of increased militarization of lands, human rights violations, criminalization of speech and association, and overall persecution of movement leaders, activists, academics, lawyers and journalists.

Even as the state engages in full-scale warfare against the Naxalites who are deeply entrenched in the jungles with significant support from many Adivasi villages, it refuses to officially recognize the internal armed conflict. This official refusal over nomenclature enables the state to deny access to international humanitarian organizations, such as the International Committee of the Red Cross, and to ignore the principles of the Geneva Conventions. Thus, the state observes little distinction between armed combatants and unarmed supporters, while civilian authorities and non-state actors are pressed into administering warlike operations. The lack of national and international monitors to review the situation means that almost all wings of the state are deployed for this undeclared war and often with complete impunity.

At the same time, the militarization is a prelude to, as well as a consequence of, the establishment of extractive industries, with the military presence clearly designed to allow mining corporations to take over land and other natural resources in this mineral-rich region. This has led to a vicious cycle of militarization and dispossession in Chhattisgarh, and to the devastation of the lives of the region's indigenous peoples

In the interim order banning Salwa Judum, which still remains unimplemented, the Supreme Court found rare words of empathy for the plight of the Adivasis that aptly describe the current situation:

The justification often advanced by advocates of the neoliberal development paradigm, as historically followed, or newly emerging in a more rapacious form in India, is that unless development occurs, via rapid and vast exploitation of natural resources, the country would not be able to either compete on the global scale, nor accumulate the wealth necessary to tackle endemic and seemingly intractable problems of poverty, illiteracy, hunger and squalor. Whether such exploitation is occurring in a manner that is sustainable, by the environment and the existing social structures, is an oft debated topic, and yet hurriedly buried. Neither the policy makers nor the elite in India who turn a blind eye to the gross and inhuman suffering of the displaced and the dispossessed provide any credible answers. Worse still, they ignore historical evidence which indicates that a development paradigm depending largely on the plunder and loot of the natural resources more often than not leads to failure of the state; and that on its way to such a fate, countless millions would have been condemned to lives of great misery and hopelessness.²²²

In such a context of fear and repression in one of the most mineral-rich states with large stretches of forest cover, it is imperative that campaigning with Adivasis in India in their fight to protect their lands and rights becomes a global priority.

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