

REPORT OF THE FACT-FINDING TEAM TO SOUTH CHHATTISGARH
MAY 6 – 8, 2016

CONTENTS PAGE

CONTEXT.....	2
RATIONALE OF VISIT	4
ORGANISATION OF VISIT.....	5
TERMS OF REFERENCE.....	6
PART 1: ENQUIRY	8
1. SUKMA DISTRICT	8
2. DANTEWADA DISTRICT	9
3. BIJAPUR DISTRICT.....	11
4. JAGDALPUR TOWN, BASTAR DISTRICT	14
PART 2: ADDITIONAL ENQUIRY	24
5. MEETING WITH OFFICIALS	24
6. MEETING WITH THE NAXAL PEEDIT SANGHARSH SAMITI (NPSS).....	25
OBSERVATIONS	27
RECOMMENDATIONS.....	32

CONTEXT

The history of conflict in the Bastar region¹ is well established; With the entrenchment of the CPI-Maoists since the late 1980s, counter-insurgency operations in Chhattisgarh came to public attention in 2005, when reports of the Salwa Judum, translated from Gondi as 'purification hunt', starting appearing out of erstwhile Dantewada (comprising Sukma, Bijapur and Dantewada Districts). While official claims attempted to project the Judum as a spontaneous tribal movement against excesses of the Maoists, it was soon established to be a state sponsored strategy to arm some civilians and put them at the service of the state. As Salwa Judum took shape with the arming and training of unemployed Tribal youth and minors as well as former Naxalites, titled Special Police Officers (SPOs), violence escalated with forced shifting of people into camps, large-scale violence, destruction and burning of villages, sexual violence and disappearances of people. Official figures suggest an estimated displacement of more than 1,00,000 tribal people, with 47,238 villagers in the twenty camps established by the state in 2007 and more than 600 villages in the area were listed as "abandoned". Operation Greenhunt launched in 2009 saw the continuation of such violence with official sanction.² By 2011, with public outcry and the Supreme Court Judgement of Nandini Sundar & Ors Vs. the State of Chhattisgarh³ that held the Salwa Judum as unconstitutional, the intensity of the attack by central armed forces and the State lessened.

Activists, journalist and others who continue to work or study the conflict in Chhattisgarh have indicated that a move towards reviving the Judum and a renewed assault on countering insurgency through brute force seems to be taking place. Different incidents indicate such a turn; Reports of Mission 2016 to 'eliminate Maoism' by the Chhattisgarh police, coincide with the birth of private vigilante groups such as the Vikas Sangharsh Samiti, the Samajik Ekta Manch, the Mahila Ekta Manch and the Naxal Peedit Sangharsh Samiti, the formation of Agni etc., all of whose initiators have links to the Salwa Judum of 2005. The use of District Reserve Guards (composed of local tribal youth and surrendered Naxalites) is being reported in the news, a practice that was expressly disallowed by the Supreme Court in 2011⁴. The increase in militarisation, a visible and

On 25 May 2015, *Salwa Judum II* under the name of Vikas Sangharsh Samiti was formally announced at a press conference held by Mr. Chhavindra Karma, s/o the late Congress MLA and *Salwa Judum* leader Mahendra Karma. As reported in the Hindu, Mr. Chhavindra Karma described it as *Salwa Judum II*. Asked if it could be called *Salwa Judum* part two, Mr. Karma said, "Yes, you can call it so. The new outfit will undertake *padyatra* (marches) in various parts of Bastar to spread awareness against Maoism. We will seek the help of the State government so that our awareness campaigns would be followed by development works in the region."

¹ Encompassing Bastar, Dantewada, Bijapur, Narayanpur, Sukma, Kondagaon and Kanker

² <http://www.thehindu.com/opinion/op-ed/Green-Hunt-the-anatomy-of-an-operation/article16812797.ece>

³ <http://www.hrln.org/hrln/defend-the-defenders/pils-a-cases/1511-a-landmark-judgment-in-salwa-judum-case.html>

⁴ <http://www.thehindu.com/opinion/lead/salwa-judum-and-the-supreme-court/article2221935.ece>

growing concentration of armed camps also coincide with the massive increase in investment for mining and industry in the region of Chhattisgarh.

While the question of whether if at all a period of calm existed in south Chhattisgarh⁵ will have to await further scrutiny, the pattern of extreme oppression of indigenous communities, caught between the state and the Maoists remains unabated. Reports of fake encounters, suspect surrenders, rape and mass sexual violence, loot, plunder and the obliteration of means of livelihood are a continuing thread in the history of South Chhattisgarh and its indigenous people.

This report is also written with the perspective that the State and its constituent arms, as being democratically elected and governed by the principles of the constitution must be held accountable for any and all human rights violations, irrespective of the conditions in which they should occur or the duress under which armed forces operate.

Year	Arrest	Surrender	Encounter (deaths other than SF)
Till April 24, 2016	182	468	68
2015	221	279	79
2014	414	385	58
2013	219	23	83
2012	131	26	72
2011	145	10	109

Source: <http://www.satp.org>

RATIONALE OF VISIT

A fact-finding team visited South Chhattisgarh between May 6 and May 8, 2016 to investigate and assess the reports of State violence on indigenous communities and the attacks on civil rights activists and human rights defenders. While cases of violation of human rights and civil liberties have been reported across the Bastar Division, an administrative division of southern Chhattisgarh comprising of districts of Bastar, Dantewada, Bijapur, Narayanpur, Sukma, Kondagaon and Kanker, the team was mandated to visit the 4 districts of Bastar, Dantewada, Bijapur and Sukma due to the necessity of investigating the specific cases mentioned below.

The fact-finding was constituted on the following rationale,

- Since the later 2014 and early 2015, consecutive cases of mass sexual violence by armed forces, false arrests and surrenders (of alleged 'maoists'), encounters or extra-judicial killings, destruction of property and villages of indigenous communities were being reported with increasing frequency across the districts of Sukma, Bijapur, Dantewada and Bastar. In 2015, arrests of media persons took place in quick succession, followed by the harassment and hounding of lawyers, activists and other human rights defenders in South Chhattisgarh.
- The perceptible increase in the degree and frequency of violence used by the armed forces and police raise troubling questions about the State strategy to ostensibly deal with the Maoists under the tag of 'Mission 2016'.
- While fact-findings by groups and organisations had taken place, this fact-finding was mandated to investigate a wider thematic of human rights cases towards formulating a more complete picture of the situation in South Chhattisgarh today.
- It was also hoped that eminent persons, associated with this fact-finding would act as witness to the suffering of the indigenous community and state violence carried out with impunity in Chhattisgarh today and lead advocacy initiatives to address the same.

The fact-finding team consisted of:

- Justice Hosbet Suresh, Retired Justice, Bombay High Court
- Mr. E.N. Ram Mohan, former Director General, Border Security Force (BSF)
- Dr. Virginius Xaxa, Director of Tata Institute of Social Sciences (TISS), Guwahati
- Ms. Saba Naqvi, Senior Journalist

The following persons accompanied the fact-finding for assistance in documentation and logistics:

- Sunil Kuksal (Human Rights Defenders Alert- India)
- Mathew Jacob (Human Rights Defenders Alert- India)
- Kishore Narayan (Human Rights Law Network, Chhattisgarh)
- Rajni Soren, (Human Rights Law Network, Chhattisgarh)
- Sridevi Pannikar (Independent Lawyer), on behalf of the Delhi Solidarity Group

ORGANISATION OF VISIT

The fact-finding took place from May 6th to May 8th, 2016. The team was divided into two groups and visited two of the 4 districts each. The schedule was as follows:

Date	District	Members	Assistance
6 th May 2016	Sukma	Saba Naqvi E.N Ram Mohan	Sridevi Pannicker Kishore Narayan
	Dantewada	Justice Suresh Dr. Virginius Xaxa	Mathew Jacob Soni Sori (Translator)
7 th May 2016	Bijapur	E.N Ram Mohan Dr. Virginius Xaxa	Sunil Kuksal
	Bastar	Justice Suresh Saba Naqvi	Mathew Jacob
8 th May 2016	Raipur	All team- members	-

TERMS OF REFERENCE

The team was asked to consider a) specific cases, on which background material in the form of an information dossier were provided b) hear other cases that came up during the course of the visit and c) meet with State officials. The fact-finding team was mandated to investigate the following cases as part of the TOR:

1. Sukma District

- a. Case 1: Enquire into the reported incidents of large-scale violence, including reports of mass sexual violence on young girls and women by the armed forces in Kunna Village, Tehsil Chhindagarh.

2. Dantewada District

- b. Case 2: Enquire into the arrest of eight villagers in April 2016 from Kankipara Village, Dantewada District on allegation of involvement in the IED (Improvised Explosive Device) blast on March 30, 2016 in Melawada village, Dantewada, killing seven CRPF jawans.
- c. Case 3: Enquire into encounter of four women, alleged to be Maoists in the Nagalguda Hills by the armed forces on the 22nd of November 2015, and verify eyewitness accounts of rape by armed forces.

3. Bijapur District

- d. Case 4: Enquire into case of mass sexual violence, arrest, and destruction of property by armed forces in the villages of Korcholi, Itavar, Saonar, Todka and Duval Nendra in Bijapur District in November 2015 and January 2016.
- e. Case 5: Enquire into case of extra judicial killing of former Naxalite – Zareena by police forces in Bijapur District on the 19th of January 2016.

4. Bastar District

Meet with journalists, activists and lawyers who have faced state repression in the course of conducting their work of exposing human rights violations by armed forces and the abuse of State power. Enquire into a) accounts of wrongful arrest and harassment by the State or State sponsored private groups and b) human rights violations of the indigenous community in South Chhattisgarh under counter-insurgency measures.

These include the following persons,

- f. Journalists: Santosh Yadav, Somaru Nag, Deepak Jaiswal, Prabhat Singh (Journalists, currently in jail), Kamal Shukla (editor of Bhumkal Samaj and

Chairperson of Patrakar Suraksha Kanoon Sayunkt Sangharsh Samiti or the Joint Committee to Struggle and Demand Law for Protection of Journalists).

- g. Legal practitioners: The Jagdalpur Legal Aid Group (JagLAG), legal aid team providing free legal services to innocent tribal people arrested under charges of being or aiding Maoists) and suspended Judge Prabhakar Gwal.
- h. Researchers: Bela Bhatia (Academic and Activist from Jagdalpur)
- i. Tribal Leaders: Soni Sori (Tribal leader, Activist and AAP party member) and Manish Kunjam (Ex MLA (CPI), Tribal leader and activist)*.

5. Meetings with Officials

- a. Meet with and inquire, if possible, into the specified cases with Superintendent or Police in all four districts, the IG of Police, Bastar SRP Kalluri in Dantewada*.
- b. Establish dialogue with the Chief Minister of Chhattisgarh and the Leader of Opposition in the Chhattisgarh Assembly.

6. **Meet with representatives of the Naxal Peedit Sangharsh Samiti (NPSS):** The NPSS is a private group of tribal people affected by Maoist violence so as to ascertain the nature of grievances.

7. **Press Conference:** Share key findings with senior journalists.

* The team could not meet with Manish Kunjam due to difficulties in transportation and time constraints. Requests for meetings with the district police officials were not responded to.

PART 1: ENQUIRY

1. SUKMA DISTRICT

Sukma District, created in the year 2012 is the southern-most district of Chhattisgarh and borders the State of Odisha and Andhra Pradesh. Topographically, Sukma District is hilly with large forest areas and limited industrial or mining activity. Out of a total population of 249,841⁶, around 69.53 percentage (the other figure seems to be 74 percent but unsure of reliability) of the population belong to the tribal community, which is 173,714 persons. Gondi and Halbi are the main spoken dialects. Covering an area of 5635.79 Sq. km with 379 villages, Sukma District is divided into three Tehsils of Sukma, Konta and Chhindagarh. The literacy rate of the place is below the national average at 36.29 per cent –amongst the lowest in the entire country.

a. Case 1: Kunna Village, Chhindagarh Tehsil, Sukma District

From October 2014 till date, several fact-finding teams from Women Against Sexual Violence and State Repression (WSS) had brought out reports which shed light⁷ on various cases of sexual and physical violence, beatings, destruction of property and looting by armed forces during search and comb operations in Bijapur, Sukma and adjoining districts of South Chhattisgarh. Drawing from these reports, the fact-finding team heard testimonies of affected women as well as the district police officials in the Sukma headquarters. Four Gondi women, Madkam Hidme, Kartami Adme, Musaki Kosi, and Podiyami Jogi from the village of Kunna in Tehsil Chhindagarh, travelled to the district headquarters from where the incident took place. A young man and woman from their village translated the testimonies from Gondi to Hindi.

Testimony

The women informed the team that the 'force' came to their village, Kunna, on 11th January 2016 (Monday) for patrolling and combing operations and occupied the village school building. Thereafter, the forces forcefully entered the houses in the village, physically assaulted several men and women, and detained them in the school premises. They also took away the livestock and food grains from their houses.

The next day again, several men and women were brought against their will to the school premises from the village. The forces then arbitrarily picked five men and women for questioning. The fact-finding team met with four of these women. The women narrated that even though they repeatedly told the forces that they had nothing to do with the Naxalites, they were mocked, verbally abused, beaten and their clothes torn. Podiyam Jogi, one of the women who had her child with her, said, "I pleaded with the forces to let me go as I had a young child alone at home, but they did not believe me. They stripped me and squeezed my breasts to see if I was lactating". She further

⁶ <http://sukma.gov.in/sites/default/files/statistics.pdf>

⁷State of Siege: Report on Encounters and Cases of Sexual Violence in Bijapur and Sukma districts of Chhattisgarh, <https://wssnet.org/2016/05/04/state-of-siege-report-on-encounters-and-cases-of-sexual-violence-in-bijapur-and-sukma-districts-of-chhattisgarh/>

reported that obscene gestures and remarks were made throughout by the security force personnel who mocked and ridiculed the women. Thereafter, the rest of the women were also stripped and subjected to the same treatment. The women were told that their breasts were squeezed to check whether they were lactating or not, as women who were not lactating, and hence were not pregnant or had just given birth, must necessarily be Naxalites. The women and men, except Podiyam Jogi, were then driven in a car to the CRPF camp in Busaras. They were released later in the evening, as the villagers contacted Chaman Kunjam, the Janpad Adhyaksh (District President) from the area.

The women told the team that most of the men in the forces wore masks. While most of the force was not composed of local people, there were 3 local Special Police Officers (SPOs) whom they recognised and named. When asked, they told the team that no police person had come to record their statement till date and no police complaint had been filed. The team was also informed that while they were taken to the Sukma District Hospital, no medical examination for molestation or rape took place even after waiting all day.

2. DANTEWADA DISTRICT

In the year 2000, Bastar division was divided into three revenue districts, namely, Bastar, Dantewada and Kanker. In the year 2007, Bijapur District was carved out of Dantewada. Dantewada shares borders with Sukma, Bijapur, Narayanpur, Kondagaon and Bastar. It covers an area of 3410.50 sq km, with 239 villages in all. Dantewada is a tribal dominated district with around 77% of the total population belonging to the Scheduled Tribe (ST)

Dantewada is rich in mineral and forest resources, with reserves of iron ore, tin and radioactive minerals. One of the earliest mining operations in Chhattisgarh started with iron ore mining in the Bailadila range of Dantewada by the National Mineral Development Corporation (NMDC), the largest producer and exporter of iron ore in India. MoUs with TATA and Essar for mining of iron ore and steel production were also signed as early as 2005.

b. Case 2: Kankipara Village, under Kuakonda Police station, Dantewada District

The visit to Kankipara was conducted to enquire into the false arrest of eight villagers in April 2016. The villagers were arrested on the grounds of being involved in the IED (Improvised Explosive Device) blast that took place on March 30, 2016 in Melawada village, Dantewada District in which seven CRPF jawans travelling in a TATA 407 truck were killed.

The police accounts claim that 'cadres were rounded up from Kankipara Forests after a gun battle between a joint team of armed forces and rebels'. Kartami Pandu, an

active member of military platoon number 24 of the CPI (Maoist) was arrested along with six others.⁸

Approximately sixty villagers, young, old and children collected together to meet the fact-finding team at Kankipara Village. Eight villagers deposed in front of the tribunal. Soni Sori, tribal leader and activist from Dantewada and a human rights activist translated the testimonies from Gondi to Hindi.

Testimony

The villagers' testified that on April 11, 2016, approximately 300 armed forces from the District Reserve Group, Central Reserve Police Force (CRPF) and the specialised unit of the CRPF, the Commando Battalion for Resolute Action (CoBRA) surrounded the Kankipara village between 3 am to 4 am. The armed forces opened fire without provocation and three shots were fired, one of which hit a villager called Kartami Pandu on the leg.

The team was told that Kartami Pandu, a resident of Kankipara village is the only son of Kartam Linga (father) and Kartami Pande (mother). Sula Kartami, father of Hunga Kartami (one of the men arrested, see below) was an eyewitness to the incident and saw Pandu being shot and taken by the armed forces. Sula himself was slapped and hit by the armed forces.

Along with Kartami, who was arrested after being shot, 6 other villagers (Katti Padiyami (40), Hunga Kartami (30), Pirung Sori (35), Aaytu Podiyami (35), Kosa Podiyam (28), Raju Manda (38) and Rame Podiyami) were picked up from the surrounding forest where they were hunting wild hens. While official records claim that the six men were arrested after a gun battle, villagers state that no such exchange of fire took place in the vicinity of their village.

After his arrest Kartami Pandu was declared as a high-ranking Maoist, with a price of One Lakh on his head, a claim that villagers categorically deny. They also denied the claim that the others arrested by the police are Maoist and were in any way involved in the IED blasts that killed troops on March 30, 2016.

The villagers also informed the team that they were told that Kartami Pandu was being treated in a hospital in Jagdalpur town for his bullet injury and was subsequently brought to Dantewada. No one has seen or heard of him since April 24th, 2015. His parents fear that the police or armed forces have killed him.

Moreover, various villagers testified that the forces beat up villagers, including women with rifle butts. They stated that they live in constant fear and intimidation. Women are forced to guard their families against armed forces. Villagers identified surrendered Naxalites, as having accompanied the forces.

c. Case 3: Nagalguda Village, Konta Tehsil, Dantewada District

⁸ Seven Naxals held in Dantewada landmine attack case, PTI, *Indian Express*, April 12, 2016, last accessed on June 18, 2016

At 7 am on the 21st of November 2016, four women, identified as Rame, Pande, Sanni and Mase were shot dead by a joint team consisting of the DRG and the CRPF near Nagalguda. It was claimed that all 4 were Maoists and were killed during a raid on a Maoist camp in the Nagalguda hills bordering Sukma and Dantewada District⁹.

22 DRG jawans were awarded for this encounter, even though according to NHRC and Supreme Court Guidelines, no rewards for encounters can be given.

Villagers refute that the 4 women were killed during cross firing and claim that they were killed in a staged encounter by the armed forces. The fact-finding team heard eyewitness accounts of this case from Nagalguda village. Their identities are being withheld out of concern for the personal safety.

Testimony

On 21st November 2015, the CRPF and police forces surrounded the village. 4 women belonging to Maoist cadres who had come to the village to solve a dispute attempted to flee. They were caught and SPO Badru raped one of the women before they were killed.

In the fields outside the village, the CRPF and police forces started firing, and thereafter firing also started from the other side. After some time, two sari-clad women came out with their hands up in the air. Sometime later, two more women came out with their hands in the air. The women were wearing Naxal uniforms. The police hit all of them in the knees and dragged all 4 women to the river (a naala in the fields). They were stripped, one of them raped, abused and beaten. The women were pleading with the forces to not kill them. They were shot by SPO Badru and dressed their dead bodies in Naxal uniform. Cuts were made using knives on the spots in uniform where there were bullet holes.

3. BIJAPUR DISTRICT

Bijapur, formerly part of the Dantewada district, was created in 2007. Bordering Narayanpur District, Maharashtra and Andhra Pradesh, it has the second lowest population, as well as literacy rate of all districts in the country. The total area of the district is 6562.48 sq. kms. with the four block divisions: Bijapur, Bairamgarh, Bhopalpatnam and Usoor. Heavily forested with rich reserves of mineral resources, Bijapur has remained as a stronghold of the Naxalites. Heavy forests, combined with easy access to Maharashtra and Telangana make it a strategically important place for the Maoist Movement.

d. Case 4: Korcholi, Itavar, Saonar, Todka and Duval Nendra Village, Bijapur District

⁹ <http://timesofindia.indiatimes.com/city/raipur/4-women-Naxals-killed-in-Bastar-police-encounter/articleshow/49888231.cms>

The fact-finding team heard the following testimonies from Bijapur District at the Circuit House in the district headquarters.

Sexual Violence and Extra Judicial Killing

Cases of sexual violence and extra judicial killing by armed forces were heard from the village of Korcholi, located in northeastern Bijapur in the hills of Gangaloor. Korcholi lies 5 km off any motorable road. Itavar, Soanar, Todka and Duval Nendra are neighbouring villages. According to the women's testimonies and the WSS Fact-Finding¹⁰, which directly preceded the current team and facilitated the villagers in contacting the current team also,¹¹ Korcholi consists of approximately 100 households and has no access to basic facilities of health, education, and electricity. Neighbouring villages of Korcholi and Itavar have seen successive incidents of violence by police and armed forces. Combing operations accompanied by repression have been reported in the summer of 2013, in 2014 and more recently, with more ferocity from the end of 2015 till date.

The villagers came from Korcholi, Duval Nendra, Itavar and Saonar to meet the fact-finding team. Those who deposed before the team were – Punam Potti and Pandu Pottam, Somli Pottam, Bucchi Pottam, Badri Pottam, and Lakki Pottam from village Korcholi, Pottam Gujru, Budri and Sukku Kunjam from village Duval Nendra

- **A case of gangrape of an Adivasi woman, Korcholi village**

A woman (identity withheld) was accosted by five security persons while collecting firewood near her house. She was forcibly taken to the forest and raped by two security persons, after which they left her in the forest. She narrated that she begged them to leave her, as she had a one-year old child at home.

- **Tulsi Pottam, Somli Pottam and Mangli Pottam, Korcholi village**

In January 2016, Tulsi (15), Somli (15) and Mangli (16) were grazing cows in the forest when they came upon armed forces travelling through their village area. Two personnel caught Mangli by her hair and assaulted her. When Somli and Tulsi attempted to intervene, they were beaten up and hit by rifle butts in the stomach. Mangli's clothes were torn and for approximately half an hour, she was thrashed and kicked before being released.

Later in the same day, the security personnel entered a house in the village and destroyed the family's meagre property. Utensils were broken, kerosene was mixed in rice to make it inedible, and other food was thrown on the ground. Villagers believe that the security personnel were from the nearest police station in Gangaloor, although they could not recognise anyone in particular.

- **Lakki Pottam, Korcholi village**

¹⁰No Strangers to Violence: More stories of rape and looting in Chhattisgarh's Bijapur district, Women Against Sexual Violence and State Repression (WSS), A fact finding report.

¹¹Woman Naxal killed in gun-battle with police, PTI, January 19, 2016 | UPDATED 20:05 IST

Lakki Pottam (30) testified as to how in February 2016, eight security personnel had come to her house. They asked Lakki for money and as she refused, beat her and her son. They also burned her clothing and stole personal and household items, including Punem Modhi, her brother, was also beaten and attacked with an axe. He sustained severe injuries on his legs.

The above testimonies stories are representative of other such cases of sexual assault, rape and molestation by armed forces and the police, but could not be heard due to paucity of time. All the villagers confirmed that the armed forces are involved in large-scale looting of their household items like dried mangos, rations, poultry, goats, blankets, money and clothes like lungis. Women who tried to save their household items and other belongings from being taken by the armed forces were beaten brutally. Women were molested, sexually assaulted and abused, while male members were tied and beaten with rifle butts. Specific cases recounted are given below. These incidents were carried out during the most recent search and comb operations by armed forces, which took place in November 2015 and January 2016.

Filing an FIR on the case of rape and sexual assault by armed forces

After hearing the above testimonies, Members of the present fact-finding team along with the WSS team and other villagers visited the Bijapur police station at the instance of the villagers, to help them file a First Information Report (FIR). Despite the assurance of the Station-in-charge, Mr. Nitin Upadhyay to the members of FF team that an FIR will definitely get lodged in the case as per the guidelines of the Lalitha Kumari case, an FIR was eventually refused on the grounds that the incidents had taken place in the past and would need further investigation. This in itself is unlawful since Section 154 of the CrPC makes it mandatory for the police officer to register a complaint on receipt of information in cases of cognizable offense, such as sexual violence.

e. Case 5: Case of Zareena, Baynar Village, under Bedre police station, Bijapur District

Fake Encounter by Police and armed forces

On the 19th of January 2016, a Naxalite commander was allegedly killed during an encounter with the police at Baynar Village, under the Bedre police station in Bijapur. The encounter, as according to the police took place during exchange of firing between Maoists and a police team. Zareena's body, a 12-bore gun and other material were allegedly recovered after the firing.

Testimony

The abovementioned version of events was refuted by Ando Vakko (30), Zareena's brother in a testimony to the fact-finding team; Vakko narrated that Zareena had joined the Naxalite movement ten years ago in 2005, but in April 2015 had left to come back to her parent's house in Tamirgund, where she was living at the time of the encounter.

He narrated that on January 19th 2016, Zareena was picked up from her house while she was cooking. He also stated that she was not carrying any weapons with her when she was picked up. Refuting any chance of an exchange of gunfire, Ando conveyed that he believed that she had been killed between Bedre and Vayarnar, a distance of 10 kms by the police. Her body was kept in the Bedre police station and then sent to Bijapur for the last rites. Her family was unable to claim the body as no information of her death was provided to them. No post mortem was conducted either.

Vakko's account is substantiated by media reports¹²¹³ that also raised doubts about the official version of events. Eyewitness accounts from the village of Tamirgund also verify that she had left the Maoist movement since 2015 and was living in her village when was picked up by the police from her house.

Ando Vakko also narrated that in December 2015, the police had arrested him and kept him in custody for two months. The only information Vakko was given was that there was a warrant against him.

4. JAGDALPUR TOWN, BASTAR DISTRICT

The fact finding team visited Jagdalpur town, headquarter of the Bastar district on May 7, 2016 to look into reports of the threat to lawyers, researchers, journalists, political activists who are act as human rights defenders. Political and social activists as well as lawyers raising rights violations such as illegal arrests, long detention, fake encounters, police excesses, torture, sexual exploitation and rapes of women in large scale are being intimidated and attacked by Central armed forces as well as 'self-styled vigilante groups' and branded as 'Naxal sympathisers'. Moreover, journalists have been prosecuted for questioning official narratives of the police and civil administration for several years and new cases are increasingly being reported. Cases of journalists being beaten, harassed, arrested and even tortured while in police detention have been reported. The Editors Guild of India in its report released in March 2016, states that the media in Chhattisgarh state was "working under tremendous pressure brought about by the authorities, Maoist rebels, and vigilante groups."

The fact-finding team visited the Central Jail in Jagdalpur on May 7, 2016 to meet three journalists Somaru Nag, Santosh Yadav and Prabhat Singh. All three were arrested over a course of time in 2015. The family members of all three travelled to Jagdalpur to meet the fact-finding team. The team also met Kamal Shukla, veteran journalist, Adv. Shalini Gera of the Jagdalpur Legal Aid Group (JagLAG), Bela Bhatia, researcher and activist and Soni Sori, tribal activist and leader. All of them have been working in

¹² Woman Naxal killed in gun-battle with police, PTI, January 19, 2016 | UPDATED 20:05 IST

¹³ <http://indianexpress.com/article/india/india-news-india/zareena-death-doubts-over-encounter-that-killed-a-naxal-love-story-2759812/>

South Chhattisgarh under tremendous pressure and threat to their lives. The team also met the dismissed Dalit Judge, Prabhakar Gwal.

The team members could not meet arrested journalist Deepak Jaiswal and Scroll reporter, Mailini Subramaniam. Malini Subramaniam was forced to leave Bastar in July 2015 and she was not in Chhattisgarh at the time of the team's visit. Deepak Jaiswal was lodged in Dantewada jail, which the team could not visit due to paucity of time. The reporting on their cases is based on the discussions with other journalists, activists and from media reports.

f. Testimonies of Journalists

- **Kamal Shukla**

Kamal Shukla is the editor of the weekly newspaper Bhumkal Samaachar, based in Kanker. Shukla narrated that SRP Kalluri, the former SP Dantewada, DIG and now IG of Bastar has been instrumental in creating an atmosphere of terror in Bastar. He recounted an instance of how a few months earlier he was called to the IG's office and shown a video of him speaking with Naxalites. The IG then threatened Shukla to arrest him on the basis of the video if were to carry on reporting false encounters. Shukla reiterated that like other journalists, an essential part of reporting is to talk to all sides while reporting on a story and that such videos cannot constitute evidence of any collusion with the Naxalites. He continues to live his life in fear and faces intimidation and threats from both the Maoists and the police in Bastar.

Shukla informed the team that journalists in the region have formed the Patrakar Suraksha Kanoon Sayunkt Sangharsh Samiti (Joint Committee to Struggle and Demand Law for Protection of Journalists) demanding freedom of the press. Kamal Shukla is the General Secretary of this committee.

- **Somaru Nag**

Somaru Nag (25), a tribal journalist from Darbha valley of Bastar, was arrested on July 16, 2015. He has been charged with assisting the Maoists and participating in an attack on a crusher plant 25 kilometers from his village. He has been charged under the Arms Act, for banditry, arson and criminal conspiracy.

Nag narrated that he was at his photo studio when he saw the police, including the Sub-Inspector searching for someone. The police approached him and then left after a brief conversation where he denied having any knowledge of the men they were looking for. The same policemen then came back and asked him to come with them in their car. Nag informed them that he could not leave, as he had to shut his shop for the night. But at their insistence was forced to do so. After driving for a kilometre, he was transferred into another car with four men. Nag was beaten in the car and taken to the Parpa police station. He was kept there for three days and tortured. He has two long gashes or cicatrix on his upper left arm, scars from the beating and torture inflicted upon him at the time of his arrest, as shown to the fact-finding team.

Nag states that he was bewildered by his arrest and did not expect any hostilities from the police since as he never did any investigations challenging the police version of

encounters or surrenders. He mainly supplies news about the Bastar District to multiple Hindi publications. He also runs a photo studio, four kilometres from his village.

The Gram Sabha of Nag's village has passed a resolution in his defence, stating that he has no involvement with the Maoists. His lawyer believes that it is a weak case that will be dismissed on lack of evidence. But Nag had already spent more than twelve months in jail at the time of the fact-finding.¹⁴

The team also met with Nag's family, who substantiated the above account and also informed us that his family was notified about his arrest three days after the same.

- **Santosh Yadav**

The police arrested Santosh Yadav – an adivasi journalist from Darbha on September 29, 2015. He has been charged with rioting, murder, criminal conspiracy, and accused with involvement in an attack by Maoists on armed forces. Yadav has also been accused of being part of the banned Communist Party of India (Maoist). He has been arrested under the draconian laws of Chhattisgarh Special Public Securities Act (CSPSA) and the Unlawful Activities (Prevention) Act (UAPA).

Santosh Yadav and his family believe that his arrest was precipitated by a story on false surrenders that he was investigating. The case pertained to the arrest of five tribal people from Badrimahu village in Darbha Division of the Bastar District. About 150 villagers from Badrimahu had walked 15 km to the Darbha thana as the police had promised information about five boys who had been picked up from the weekly bazaar. IG Kalluri subsequently presented this as villagers seeking protection against the Maoists. Yadav was aware of the discrepancy between both accounts, and he had reported extensively on the false arrests.

Yadav narrated that in 2014 and 2015, he had been arrested, beaten and tortured by the police. In 2014, he was kept naked in a lockup for one night before being released. He moreover also has personally intervened in cases of human rights violations by helping villagers file cases and connecting them to legal aid through groups such as the Jagdalpur Legal Aid Group.

Yadav told the FF team that in his experience of investigating cases, he has found that surrendered Maoists are used to form vigilante groups, such as the Koya Commandoes and District Reserve Group, that are used to fight the Maoist movement, a practice used during the Salwa Judum, that has been expressly disallowed by the Supreme Court of India in its judgment and order dated 05.07.2011, reported as *Nandini Sundar & Ors. v. State of Chhattisgarh (2011) 7 SCC 547*, which states that “this Honorable Court directed the State of Chhattisgarh to take all appropriate measures to prevent the operation of any group, including but not limited to Salwa Judum and Koya Commandos, that in any manner or form seek to take law into private hands, act unconstitutionally or otherwise violate *human rights of any person*”.

Yadav informed the team that SRP Kalluri had threatened him before his arrest.

¹⁴ The FF team is aware that he was acquitted of all charges in July 2016.

At the time of the fact-finding, it had been 220 days since Yadav's arrest.¹⁵

The team also met Yadav's family. Family members narrate that there was pressure from the local non-tribal Panchayat for him to discontinue journalism but he did not do so as it was his passion.

- **Prabhat Singh**

The third and most recent journalist-resident of Jagdalpur jail, Prabhat Singh (32) was arrested in March 2016. Singh was working on a campaign for drafting a law protecting journalists in the state. He is the contact person in South Bastar for many journalists in the state and larger region. Singh had also recently reported on encounter cases and cases of fraud and corruption by education and Hindu fundamentalist organisations, such as the Vanvasi Kalyan Ashram.

Prabhat Singh has technically been arrested under Section 67 and 67-A of the Information Technology Act for publishing and transmitting obscene material in electronic form and three other cases against him in Dantewada accusing him of interfering in police investigation, cheating and extortion.

His arrest was most probably precipitated a police complaint he filed against the Samajik Ekta Manch (SEM) on the 6th of March, a private vigilante group composed of many erstwhile Salwa Judum leaders working closely with the police. On the 19th of March, Prabhat Singh was fired from his post as a consultant for ETV, a news network and within 2 days arrested by the police for a Whatsapp message posted prior on March 1st that made light of a police official.

In his meeting with the fact-finding team, Prabhat Singh narrated that he was forcefully picked up by a uniformed and one plainclothes police personnel on March 21st at 4.30 pm from his office. He was taken to Jagdalpur in a car with no number plate and tortured in police custody at the Parpa police station. Singh narrated that he was told to sign a paper, which mentioned something about a 50-rupee transaction, of which he does not have any further details. When he resisted, they placed blades between his fingers and tortured him. Singh signed the paper under duress.

Singh was visibly shaken by his ordeal but recounted the sequence of events that led to his arrest clearly. He indicated that ETV fired him after instigation from IG Kalluri, who he believes plays a large role in what news gets published and what does not. He informed us that local media had witnessed IG Kalluri threatening Singh and had reported on it. A year before his arrest in 2014, when Singh had introduced himself to IG Kalluri after a press conference, the inspector had told Prabhat, "*Tumhari kundali mere pass hai*" (I determine your fate)¹⁶.

He also expressed the need for further investigation into issues such as the financing of major news channels operating in Chhattisgarh today.

¹⁵ Santosh Yadav has been granted bail by the Supreme Court.

¹⁶ <http://dilipsimeon.blogspot.in/2016/03/report-of-fact-finding-team-of-editors.html>

The team also met Singh's brother at the Dantewada Circuit house on May 6, 2016, who shared the story of Singh's arrest and torture. His family has conveyed that they fear for his armed and safety.

People the fact finding didn't meet

Malini Subramaniam, rights activist and journalist

Regular visits by the police to Malini Subramaniam's house, ostensibly for routine checks started in August 2015. Such visits, understood as an attempt towards intimidation, followed the same timeline as intimidation and threats to the JagLAG, Soni Sori, Bela Bhatia, which are outlined in detail subsequently.

On February 7, 2016, SEM held a demonstration of approximately 20 people outside Subramaniam's house, where stone throwing occurred. The crowd also shouted slogans such as "Naxali Samarthak Bastar Chodo. Malini Subramaniam Murdabad" (Naxal supporter, leave Bastar. Death to Malini Subramanian). Attempts to reach the SP of Bastar were unsuccessful as he had disconnected the phone. With the help of JagLAG, an attempt was made to register an FIR at Dharampur Chowki and at the SP's office but the police refused to entertain the complaint. After meeting with CSP Deepmala Kashyap, Deputy Commissioner Kaushal Kodopi, the Additional Collector Mr. Nayak, and finally the Collector Amit Kataria, an FIR was registered on 9th February 2016.

Intimidation by the SEM continued for the next 4 days and on the 14th of February, Subramaniam's landlord received a notice asking him to come to Jagdalpur Police Station from Raipur for questioning. On the 17th, Prachi, her domestic help was called in for questioning at the police station where she was kept for three hours in the afternoon and again at 9 pm at night. She was let go only at midnight. When Subramaniam's husband went to enquire about her detention, he was also detained. On the next day, Prachi was once again detained for 11 hours and her landlord was threatened on the phone. Due to such pressures he was forced to serve an eviction notice to her family. Fearing for the safety of her family and help, Malini and her family decided to immediately leave Bastar on February 19, 2016.

Deepak Jaiswal, Reporter Hindi Daily "Daindini"

The Chhattisgarh police arrested journalist Deepak Jaiswal(32) on March 27, 2016 within a week of Prabhat Singh's arrest. Deepak was arrested from the court premises in Dantewada where he was observing the court proceedings in Prabhat Singh's case. Jaiswal was booked under Sections 448, 385m 353, 186(34), 186 of IPC and 6 of Chhattisgarh State Examination Act and in one case as a co-accused along with Prabhat Singh. The arrest was technically on the basis of a complaint by the principal of a Higher Secondary School in Geedam made seven months ago.

Jaiswal works as a reporter for the Hindi daily Daindini published from Geedam in South Bastar. Singh and Jaiswal were associates and had worked together in the past. The complainant alleges that both journalists had entered the school premises without his permission, manhandled teachers and staff members and had attempted to extort money. In fact, the two of them had gone to the high school in order to cover

a story of mass cheating during examinations, enabled by the school authorities. No official explanation regarding why the arrests were made seven months later are forthcoming. Both Jaiswal and Prabhat Singh have reported on the human rights violations perpetrated by police and armed forces under the garb of counter insurgency operations. Deepak was the fourth journalist to be arrested by the police in a span of six months.

g. Legal Practitioners

• The Jagdalpur Legal Aid Group

The Jagdalpur Legal Aid Group (JagLAG) was founded in 2013 by a group of young lawyers, of whom Advocates Shalini Gera and Isha Khandelwal are still working from Chhattisgarh. Based in the town of Jagdalpur, JagLAG has been providing free legal aid to tribal communities in South Chhattisgarh's five key conflict-hit and primarily tribal districts— Bastar, Dantewada, Kanker, Sukma, and Bijapur. The legal aid group handles cases of villagers falsely accused and jailed in the category of 'Naxal related offenses' – a special category of cases particular to Chhattisgarh. JagLAG has also been conducting documentation and research on information regarding the overcrowding of jails and the high rate of acquittals of those under trial in 'Naxal offences'.

JagLAG has worked diligently within the framework of the Indian judicial system to ensure justice to innocent tribal villagers. They have played a critical role in identifying atrocities committed against tribal people by the police and armed forces in the name of counter-insurgency. JagLAG has filed a case on behalf of villagers from Chote Tongpal and Jangampal, Sukma District who were denied the right to register a police complaint against the Kukanar Police for beating women from their village. In two separate cases in Bijapur and Dantewada, JagLAG brought the court's attention to illegal detention and inhumane torture of two imprisoned tribal people – marking the first time that such applications had been moved in the District Court.

JagLAG has also documented instances where police and armed forces have engaged in everyday violence against ordinary villagers in retaliation for their protest against police action. They represented villagers from Rewali in a magisterial inquiry on the killing of an unarmed villager, Nuppo Bhima by the armed forces. JagLAG also represented the villagers of Sarkeguda, Kottaguda and Rajpenta before the Commission of Inquiry investigating the encounter killings of seventeen villagers plus one (seven of whom were minors) by the CRPF on the night of June 29, 2012.

Following a similar timeline to the intimidation and harassment of Malini Subramaniam, in August - September 2015, an anonymous complaint was registered against Shalini Gera, Isha Khandelwal, Guneet Kaur and Parijata Bharadwaj, indicating that they were fraudulent lawyers. A police investigation was undertaken into this complaint, although JagLAG pointed out to the SP of Bastar that the police does not have the jurisdiction to probe into their eligibility of practising law- that is the exclusive domain of the State Bar Council of Chhattisgarh.. Nevertheless, the police used this opportunity to harass

them, and this harassment soon escalated into a resolution by the Bar Association prohibiting 'outside lawyers' from practicing in Bastar. The resolution seemed to specifically target the work of JagLAG. On the basis of an interim order (dated 6th November 2015) passed by the State Bar Council of Chhattisgarh on an appeal filed by JagLAG, their practice was resumed.

JagLAG was also involved in assisting activists such as Bela Bhatia and Soni Sori (see below) in handling legal matters including the filing of complaints against police harassment. On the 9th of February, the Samajik Ekta Manch at a press conference whilst threatening Malini Subramaniam, also indicated that JagLAG would be their next target. On the 17th of February, the same day that Subramaniam's domestic help was detained for questioning, JagLAG's landlord (of both their house and office in Jagdalpur) was called to the traffic police station and kept there for 3 hours. His car was impounded and he was told that it would only be released if he evicted JagLAG from their resident and office space— his main source of livelihood as a driver and was pressured into serving an eviction notice. His car was only released the next day.

On the 18th, the SEM also held a rally that passed near JagLAG's office/house, a clear means of intimidation. Throughout this period of harassment, JagLAG ensured that Collector, Commissioner, Special DGP Anti-Naxal operations and CM Raman Singh were informed of the events.

In consonance with the above described events, the Jagdalpur Bar Association also passed a resolution on the 19th of February, targeting local lawyers who work with JagLAG. What must also be mentioned is that the media was producing newspaper reports and TV news targeting JagLAG and the others over the period of time.

On the 20th, before leaving Jagdalpur, JagLAG and Bela Bhatia held a press conference on the events of the past few days. They received information regarding their eminent arrest, which was relayed to the authorities, but elicited no response. JagLAG is currently based out of Bilaspur.

- **Prabhakar Gwal, Ex-Chief Judicial Magistrate, District Sukma Chhattisgarh**

Prabhakar Gwal (45) is a Dalit Judge who belongs to the village Nagarpalli (police station Saraipalli) of Mahasamund district in Chhattisgarh. He joined state judicial service as a Civil Judge Class II on January 13, 2006. He was posted as the Chief Judicial Magistrate of Sukma district on September 26, 2015 and was dismissed from services on April 1, 2016 on the grounds of 'public interest' following recommendation by the Chhattisgarh High Court.

Gwal put to the fact-finding team that his dismissal and orders that include stopping of his increment, power seizure and dismissal are illegal as they were not preceded by any departmental enquiry. The only grounds for dismissal as communicated to him were of 'public interest', which is inadequate.

Prabhakar Gwal believes that his dismissal was precipitated by his involvement in a case concerning wrongful detention of approximately 1000 villagers in Sukma that took

place on the December 22nd 2015. On the 22nd, around 1000 villagers were picked up by the police from different locations such as markets and public places in Sukma District and brought to the Sukma Police Station. Of the approximately 1000 persons picked up, 30 persons were shown as chargesheeted. Gwal wrote a letter doubting the veracity of arrests on December 22nd 2015 to the Chhattisgarh police headquarters and also sent a copy to the Superintendent of Police, Sukma. As narrated to the fact-finding team, he was threatened by Mr Santosh Singh, Additional Superintendent of Police, Sukma to consider the abovementioned cases, which he refused to do. Gwal further followed up in January 2016 by writing to the police headquarters and Inspector General of Police and Superintendent of Police, Sukma, This led to a complaint and intimidation by Additional SP of Sukma, supported by the ASP and collector of Sukma.

In 2014, Gwal was also involved in uncovering controversial cases of the Vyapam Scan, i.e. corruption regarding leaking of exam papers and the illegal detention of tribal Deva Sodi in Dornapal thana of Sukma.

Gwal also shared with the fact-finding team that aside from himself, 22 judges belonging to SC/ST category have either been forced to take voluntary retirement or were suspended or dismissed in Chhattisgarh since 2013.

h. Researchers/Activists

Bela Bhatia is a social scientist, independent researcher and academic who was formerly associated with the Tata Institute of Social Sciences (TISS). She has also been part of government bodies and think tanks studying conflict areas such as the former Planning Commission and The Centre for Study of Developing Societies.

Bhatia moved to Bastar in Chhattisgarh in 2014 and currently lives in the Parpa village in the Jagdalpur Tehsil of Bastar District.¹⁷¹⁸ Bela has been instrumental in documenting cases of fake encounters of tribal people and the cases of mass sexual violence by armed forces. Most recently, Bela Bhatia was part of the fact-finding teams that helped tribal women file an FIR against the large-scale sexual violence by armed forces during search and comb operations that took place in Sukma and Bijapur District in late 2015 and 2016. She also writes for national dailies and academic journals. Her involvement in investigating these cases, most likely precipitated the events described below.

Simultaneous to the harassment of JagLAG described above, Bela Bhatia was also been subject to a campaign of intimidation. On the 29th of January, the NPSS organised a demonstration in which effigies of Bela Bhatia, along with that of Soni Sori and Arundhati Roy were burnt in public, accompanied by slogans directly threatening them. In the same fashion as that of the JagLAG and Subramaniam, Bhatia's landlord was also called to the station on the 20th of February 2016. On the 23rd, two uniformed policemen from Parpa and 2 plainclothed policemen with Ids came to her village and

¹⁷ Bela Bhatia was forced to evict her house in Parpa in 2017 following which she was given a house in Jagdalpur by the District Collector with police protection. She currently resides there with her dogs.

¹⁸ <http://www.outlookindia.com/author/bela-bhatia/16786>.

clicked photos of her and her house without consent. Mahila Ekta Manch, the women's wing of the SEM demonstrated against Shalini Gera and Bela Bhatia on the 18th of March and demanded that they leave Bastar or be charged under the Chhattisgarh Special Public Security Act. In another instance in March 2016, a group of around 100 men, women and armed police officers in plain clothes came to her village led by Mahila Ekta Manch (the women's wing of the SEM). They held a demonstration outside her home, calling her "Naxali dalaal" (agent of Naxals) and reportedly asked her to leave Bastar. The group also distributed pamphlets to her neighbours with incendiary messages such as "Know the woman who lives next to you: Bela Bhatia, a pimp of Naxalites." The group asked Bhatia to stop "collaborating with Naxalites" and "attempting to break the country into pieces".

Bela Bhatia told the fact finding team that the police seem to have detailed news of her whereabouts, indicating the possibility of her phone being tracked. Her landlord, as well as villagers and Sarpanch of Parpa Village have been questioned regarding her activities. After pressure from various groups and people outside of Chhattisgarh, the police offered her protection, which she refused stating that she cannot in all good conscience accept police protection unless other women in the region are not extended the same protection. Bela continued to live in Dantewada.¹⁹

i. Soni Sori, tribal leader, activist and AAP party member

Soni Sori (41) is a former schoolteacher who worked at a government-run tribal school in the Dantewada District. She is a tribal from Sameli village of Dantewada and is a tribal leader and activist who has been challenging and exposing human rights violations by the State and armed forces. She has also been successful in mobilising tribal people to assert their constitutional rights and agitate against police excesses. She and her nephew Lingaram Kodopi are well recognised as symbols of tribal resistance against oppression in Chhattisgarh.

In 2011, the Delhi Police's Crime Branch arrested Soni Sori and Lingaram Kodopi for the Chhattisgarh Police on charges of acting as a conduit for Maoists. Both Sori and Kodopi were tortured in custody and Soni Sori was brutally raped and sexually assaulted, as was verified by the government hospital examination. By April 2013, the Courts had acquitted her in six of the eight cases filed against her due to lack of evidence. She was granted bail by the Supreme Court in 2014 and since then has been working for and with the tribal community in Chhattisgarh.

As mentioned in the above case, the NPSS in a demonstration on the January 29th had burnt effigies of Soni. On the 4th of February, unknown persons threw leaflets issuing a death threat into her house. Subsequently, on the night of the 20th of February, the same day that JagLAG had received anonymous intimation of their

¹⁹ There FF team is aware about further threats to Bela. In January 2017, the new incarnation of Samajik Ekta Manch-Agni, demonstrated outside her house and aggressively asked her landlord to evict her. She once again categorically refused to leave Bastar, but in view of the heightened tensions in the neighbourhood, Bela decided to move into government quarters in Jagdalpur, where she continues to live till present.

arrest and were leaving Jagdalpur, Soni was intimidated of a threat to her life. While returning from Jagdalpur after conducting a press conference, she was attacked by three unidentified men near Jawbanga village under Geedam police station in Dantewada. She was on a bike with her niece. The bike was stopped and a corrosive substance was rubbed on her face, and as she narrates, she was explicitly warned from complaining against the IG, Bastar on the issue of fake encounters and threatened that the same treatment will be meted out to her daughter if she does not do as demanded. Soni was taken for treatment to Delhi. Subsequently the police detained her brother-in-law Ajay, and nephew Kodopi and kept them in the lockup for the whole night accusing them of having a hand in the attack. Soni Sori is now once again in Chhattisgarh. The complaint of the attack on Soni Sori has received scant attention from the police – despite setting up an SIT to investigate this matter, the team has yet to record even Soni Sori's statement about the attack on her.

The fact-finding team, during their interaction with Soni Sori team was told that the Chhattisgarh police have been instigating the local business community to oppose and drive her out from the Bastar area, but she has resolved to continue her work. Sori alleged that that IG Kalluri has launched slander campaigns against her and believes that he has a hand in initiating the intimidation she faces from private individuals and vigilante groups as well.

PART 2: ADDITIONAL ENQUIRY

5. MEETING WITH OFFICIALS

- **Chief Minister Raman Singh**

The team led by Rtd. Justice Hosbet Suresh, Dr. Virginius Xaxa and Ms. Saba Naqvi met the Chhattisgarh Chief Minister Mr. Raman Singh in Raipur on the last day of the fact-finding and apprised him of the fact-finding team's mission and expressed serious concerns by sharing the major findings from the mission.

The Chief Minister acknowledged the gravity of the situation and justified it as an anti-insurgency operation. He started with explaining various developmental schemes that his government has initiated to 'win the heart of the people'. The Chief Minister spoke in detail about various initiatives which included plans of operationalising schools, providing milk in anganwadis, constructing ponds in each village, electrifying the villages, constructing six meter roads in the villages and creating better avenues for higher education. He mentioned that for his government, health and education for all is the top priority.

The Chief Minister was specifically requested to elaborate on such initiatives that have taken place in conflict areas of South Chhattisgarh. The team pointed out that they had not witnessed many of these developmental schemes materialising in South Chhattisgarh. The Chief Minister responded by saying that there are 70,000 armed force jawans in the area and it is an extremely grave situation. He explained that 'there are clear instructions for forces on the do's and don'ts of operations but in extreme situations, when the enemy is difficult to trace, hundred percent control at all the times cannot be guaranteed'. He added that in spite of that, there are clear instructions against any sort of corruption or personal attacks on innocent people.

The team expressed concerns with regard to the false arrest of tribal villagers from Kankipara in the case of the IED explosion. But the Chief Minister immediately responded saying that Badegudra is a Naxalite area. He said that 'the main cadre of the Naxalites is the third layer. For any armed operations, they (the Maoists) bring children in the line of fire'. To counter this, the State also has informers in each village or else the police would never know the whereabouts of the improvised explosive devices (IED). He further mentioned that this is a long fight and State is determined to overcome Naxalism to bring development to the region.

The Chief Minister also expressed his concerns regarding the call for boycotting elections that disallows people from exercising their fundamental rights. He reiterated that the State does not want to kill it's own people and went on to deny the veracity of the reported fake encounter killings and sexual violence by forces as being unreliable and one-sided information. He also elaborated on the killing of village people by Maoists after being tried in the Naxalite Kangaroo courts. However, even after pointed questions, he did not respond to the question of culpability of armed forces.

The Chief Minister stated that the people have realised the need of siding with the State and being part of its development. He further communicated that 90% of the

people who are surrendering are from the outer third layer of the Naxalites. The rate of surrender has gone up and the state is giving each surrendered person an amount of Rs. 10,000 to rebuild his or her lives. The Chief Minister expressed pride at how the state is winning people over and cited examples from the Darbha Valley in the Sukma District to show that people are leading a peaceful life, under constant police scrutiny.

The fact-finding team further expressed grave concerns regarding the style of operations led by the IG of Bastar, SRP Kalluri. The Chief Minister agreed to the fact that the IG's name repeatedly pops up with allegations regarding human rights violations from all quarters. At the same time he also expressed his sympathy with the IG, stating the difficulties of operating in a conflict zone. The fact-finding team expressed their view that the IG is counterproductive in the area and the Chief Minister promised to take swift actions to control the situation with regard to the IG. The FF team is aware that the IG has since been removed and transferred in February 2017, but not before several other cases of fake encounters and harassment of HRDs.

The fact-finding team also communicated their concerns about the situation of journalists and the slew of arrests on fabricated charges. The team urged the Chief Minister to immediately intervene. In response, the CM informed the team that a high-level committee for journalists has been formed and a law for the protection of journalists is at the drafting stage. No such draft law has yet been shared with the public or with the team.

While expressing his concern on the violence in South Chhattisgarh and its impact on the local population, he concluded with the statement, that 'people tell me that these operations are good for the future of Bastar'.

- **Leader of Opposition, Mr. T.S. Deo**

The fact-finding team also met the Leader of Opposition in the Chhattisgarh Assembly, Mr T.S. Deo and expressed the abovementioned concerns. Deo acknowledged the said issues and stated that the government's version of many of the recounted instances are different from the reality on the ground. According to him, the government has succeeded in a psychological game to create fear and panic amongst people, in 'dominating this discourse through violating the chastity of women'.

6. MEETING WITH THE NAXALPEEDIT SANGHARSH SAMITI (NPSS)

The suggestion to meet members of the Naxal Peedit Sangharsh Samiti was put forward to the fact-finding team by activists in Chhattisgarh as a means of providing a hearing to groups with grievances against the Maoist movement. While asserting the validity of individual experiences of oppression by Maoists, it must also be said that NPSS as a group was initiated by Madhukar Rao, a former school teacher and ex-leader of the Salwa Judum, who had been living under police protection in Kutru Village, Bijapur District. Kutru was also the epicentre of the Salwa Judum in 2005, until the Judum was disbanded by an order from the Supreme Court in 2011. The NPSS has also been directly involved in the intimidations of human rights defenders, journalists and lawyers such as Malini Subramaniam, SoniSori and the Jagdalpur

Legal Aid Group. The group has also been working actively with the police and the SEM.

The hearing was attended by 10-15 men at Kutru village in Bijapur district, most of which had been displaced from their respective villages by Naxalite violence and had been part of the Judum, due to which they were targeted by the Maoists.

Bhima Podiyami, from Kutulnar village, Bijapur District was picked up and brutally beaten by Naxalites in 2013, 2014 and again in 2015. Due to fear of abduction, he and his family (wife and two sons) relocated to the camp for people displaced by Naxal violence in Jailpara, Bijapur. On advice of the district collector he sold his 5 acres of land in his native village of Ketulnar and moved to Kutru. Originally a farmer and cultivator, Podiyami now works as a daily wage labourer. Similarly Manglu (40) of Ketulnar village, Bijapur District was a farmer who was abducted and beaten by the Maoists and repeatedly threatened due to which he relocated to Kutru Village. His wife, an Anganwadi worker and three children still reside in Ketulnar Village. Ram Kumar Yadav, (26) belongs to Patakuturu village in Bijapur District and joined the anti-Maoist militia Salwa Judum in Bastar in the year 2005. He reported that Maoists have regularly targeted ex- members of the Judum for their 'anti-tribal' actions. He stated that his association with the Salwa Judum was precipitated by the Maoists forcing member of every family from his village in joining the movement and preventing children from continuing schooling after class five. He has not gone back to his native village since 2005 for fear of retaliation. Yadav currently works in the police as a Sahayak Arakshak (Assistant Constable) in Kutru.

OBSERVATIONS

1. Militarization

- The Fact-finding team observed that there was a large concentration of CRPF camps and personnel across the districts of Sukma, Bijapur, Dantewada and Jagdalpur. Reports estimate that approximately 60,000 to one lakh armed forces have been stationed in South Chhattisgarh. These include the Central Reserve Police Force, the Border Security Force and the Rapid Action Force, besides from the home-grown District Reserve Group and Koya Commandoes, making South Chhattisgarh one of the most militarized zones in the country.
- The fact-finding team observes that militarisation has not only resulted in excessive use of force, causing human rights violations, but has also caused tribal villagers to live in a constant state of everyday terror. It moreover, impacts their access to livelihood opportunities, health, local markets and other basic necessities. The constant presence of armed forces in civil areas also means that villagers face intimidation in carrying out their day-to-day activities. This infringes upon their right to livelihood as daily movements to markets and district headquarters become threatening and a cause for harassment or worse by state armed forces.
- The necessity of state armed forces in large number within civil areas on a permanent basis is observed to negatively impact the lives of the people. It was repeatedly reported by villagers, that under the cover of Anti-Maoist operations, armed forces enter villages and often under the influence of alcohol, rape women, destroy property and houses and inflict violence on men, women and children. Above mentioned search and comb operations were seen to include 400-600 personnel at one time and the logic of such large numbers was not clear. Most operations are undertaken early in the morning or late at night, violating the law and existing Supreme Court Orders.
- Team members such as the Ex-DGP, Border Armed Forces (BSF) observed that the state armed police battalions like the Chhattisgarh Special Armed Force and the Central Reserve Police Force have no training in guerrilla warfare. Only the Indo-Tibetan Border Police and the Seema Suraksha Bal (SSB) have the required training. In any case, the local community's democratic struggle with the state for rights should not be dealt with by such armed forces. The fact-finding observes that the government is acting illegally and against the Constitution in deploying armed forces, particularly those that are not trained in guerrilla warfare, in civil areas.
- The pattern observed seems to suggest that armed forces and police retaliate against Maoist ambush through torturing, abusing and terrorising tribal villages that occupy the region of the attack, as collective punishment for ostensibly supporting the Maoists. Fake encounters take place with impunity in such retaliatory attacks.
- It was also felt that the heavily armed force deployed in the region have absolutely no orientation, knowledge or regard for the realities and culture of the Adivasi (ST) community. But rather, their presence as well as the continuing conflict is playing a role in the slow destruction of indigenous cultural practices and the community itself.
- The fact-finding team is astonished that the Central and State Government are not prioritising initiation of dialogue, ceasefire or peace talks with Maoists. Military

operations seem to be the only strategy that the State is employing in the Chhattisgarh region.

2. Role of the Police: Protector versus Violator

- The fact-finding team has learnt that several complaints have been made against IG of Bastar, S. R. P. Kalluri from multiple different quarters. Journalists, civil liberties activists, and lawyers who formed part of the enquiry directly indicted IG Kalluri as having had directly or indirectly threatened them. They have attributed the creation of a reign of terror and impunity to the IG. He has been transferred in February 2017 however there are still no departmental inquiry regarding his role in the harassment of HRDs and journalists and the cases of fake encounters. Two attempts to meet the IG were rebuffed and communication was sent from him to the team stating that he was in the 'midst of an armed operation'. Whether this indicated the everyday state of South Chhattisgarh or a specific operation is open for interpretation. In fact, no news of any armed operation during the days of the fact-finding were reported anywhere. The fact-finding team observes this to be either arrogance or avoidance on the IG's part. Moreover, the news of an officer of the IG level, being active in an armed operation is worrisome if at all true.
- Well-documented media reports bring forth the problematic relationship of the police and IG Kalluri personally with private vigilante groups such as the Samajik Ekta Manch and the Naxal Peedit Sangharsh Samiti. For example, there are reports about a programme where surrendered Naxalites were married to each other and the police and SEM acted as 'guardians' of the couples²⁰. Samajik Ekta Manch has been disbanded and a new group called Agni was formed.
- Throughout the cases of harassment and intimidation of human rights defenders that this report outlines, IG Kalluri was kept informed of all events, but took no steps to counter the intimidation. The role of the police in facilitating the chain of events through acting on anonymous complaints, harassment through continuous 'routine' police checks at Malini Subramaniam, Soni Sori, the Jagdalpur Legal Aid Group's and Bela Bhatia's respective house, as well as their repeated questioning of the Jagdalpur Legal Aid Group and Malini Subramaniam's landlords; leading to their eviction is extremely worrisome.
- The fact-finding team observes that the police has abrogated its function in maintaining law and order and is acting as an extension of the armed forces. Moreover, both the police and armed forces are operating with complete impunity, as the testimonies of brutality, of torture, beatings, sexual violence, false arrests and encounters attest.

3. Lack of Access to Social and Economic Rights and Basic Services

- In contrast to the claims of the Chief Minister, essential services of health, education, electricity and public transport were not visible in the region,

²⁰<http://www.caravanmagazine.in/vantage/kalluri-chhattisgarh-samajik-ekta-manch-vigilante-media-freedom>

particularly in the villages. The contrast between infrastructure and services for the armed forces and developmental initiatives for tribal communities is startling and disturbing.

- Existing infrastructure, such as highways connecting Jagdalpur, Dantewada, Bijapur and Sukma are well constructed, but public transport and road connectivity within interior regions for the use of tribal communities was non-existent. Moreover, the fact-finding team felt that the existing infrastructure serves the purpose of state agencies and institutions, rather than serving the interests of the local population.

4. Human Rights Violations

- The team heard multiple accounts of extra-judicial killings and false encounters, arrests and surrenders, of sexual violence, beating and the destruction of village property by the armed forces in all districts of South Chhattisgarh.
- As described in the testimonies from Sukma and Bijapur, at least four search and comb operations in the past year and half have seen mass sexual violence and the use of sexual assault as a strategy of war. The women have in some cases identified the perpetrators, but no actions have been taken against them. The documented testimonies of sexual violence have been ignored and negated by police officials. In many cases such as that of Korcholi Village, the officials have refused to file an FIR. In cases where FIRs were registered, no action has been taken. The National Commission of SC/ST (NCST) has investigated and confirmed cases of sexual violence, beatings and repression by armed forces and recommended an independent CID investigation into the matter.
- Observations regarding the case of Zareena indicate that due process in law must be extended to everyone, including those who have been or are associated with the Maoist movement.
- In Kankipara, Dantewada, the villagers' account of incidents differs substantially from the police version. Moreover, the account of the villagers corresponds with one another. The police and armed forces have terrorised the village and Kartami Pandu is currently missing. The raid seems to be retaliation for the IED blasts that led to the death of armed personnel, but meted out to unarmed villagers.
- Along with loss of life, physical and sexual violence, villagers have also suffered economic and material loss with the destruction of their homes and property through loot and plunder by the armed forces.
- The extra-judicial impunity enjoyed by both police and armed forces must and has to be broken. While the challenges and threat faced by them should be recognised, at no time can it act as a reason or rationale for the police and armed forces to commit grave and repeated human rights violations.
- For over a decade now, people in the region have witnessed and suffered human rights violations by the state armed forces, police and negligence by state agencies. The exact death toll is not available but the reported figures reported stand high. Justice from courts and commissions are in no way

measurable to the reporting of violations, leading to a fear that the criminal justice system in Chhattisgarh has failed.

5. Constitutional Arrangements

- There has been an utter failure of implementing the Constitution of India by administering the reserved forest through the tribal community as is prescribed in the Fifth Schedule of the Constitution of India. While tribal groups have been demanding not just the implementation of the Fifth Schedule, but also that of the Sixth Schedule, the Government has initiated no further introspection or discussion with affected communities.
- The state's complete failure in implementing the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act 2006 in the region is of high importance to the fact-finding team.

6. Jails and the Judiciary

- There is a complete absence of effective legal aid for arrested persons.
- Research by the Jagdalpur Legal Aid group shows that the overcrowding of jails in Chhattisgarh (261%) is significantly higher than all other states in India (118%) for the past six years. The occupancy rate of Kanker District jail is 428%, Dantewada Central jail is 371%, while that of the Jagdalpur Central jail is 260%. A majority of prisoners are illiterate Adivasi (ST) men and the high rate of acquittal suggests prolonged periods of incarceration, where 96.6% and 98% of prisoners in Kanker and Dantewada jails respectively are undertrials. The fact-finding team moreover observed that the condition in jails is abysmal with overcrowding and inadequate provisioning of food and other supplies for everyday use. While the team was unable to meet women prisoners, particular attention also needs to be given to their needs and conditions.
- The case of suspended judge, Prabhakar Gwal, indicates that even the judiciary is subject to a police and militarised state and operates under tremendous pressure.
- Legal practitioners, journalists and citizens connected to human rights work are facing threats and intimidation on a daily basis. Those posing a counter-narrative to the State's handling of counter insurgency operations or engaged in bringing out the truth, be it journalists, lawyers, researchers or social activists, have been systematically jailed, evicted, attacked or silenced.
- The testimonies of such human rights defenders clearly prove that silencing dissenting voices have become a norm in the state and that defenders are not allowed to undertake legitimate and peaceful work. The current situation in these areas is in complete contradiction to the UN resolution on human rights defenders.
- Freedom of press: The case of journalists Prabhat Singh, Somaru Nag, Santosh Yadav and Deepak Jaiswal, Malini Subramaniam, Kamal Shukla and other journalists highlight the arbitrary nature of police action in Chhattisgarh. Their testimonies indicate a complete lack of freedom in reporting. The many stories of torture of arrested journalists in police custody brought to the fact-finding team are particularly worrisome. The team reiterates that a free and open media is an essential prerequisite to democratic functioning; the lack of

the same in Chhattisgarh attests to the dismal failure of democracy in Chhattisgarh.

- Restrictions on legal practice: The obstacles created by the local bar associations against human rights lawyers is a matter of grave concern and speaks volumes about the Bar Association's dependence on the goodwill of the state and police machinery. Even more worrying is the attitude of the local judiciary and administration. No legal practitioner can be stooped from appearing for his or her clients and all persons have the right to legal aid and representation in court.

7. Private Violence and Vigilante Groups

- Private vigilante groups are being allowed to function with impunity and are harassing human right defenders, local activists and lawyers. A sting operation by India Today in April 2016 showed that the Samajik Ekta Manch was instituted with police support and acts as their agent. Senior police officials were caught on tape stating that the groups such as the Samajik Ekta Manch, Mahila Ekta Manch were formed to help the police do their work by driving out 'trouble makers' (like Shalini Gera, Bela Bhatia etc.) and carry forward the work of Salwa Judum. While the sting operation and public pressure has led to the SamajikEktaManch being disbanded, its revival under other names seems imminent. Moreover, the enquiry committee instituted to investigate the group, includes IG Kalluri, who has strong connections with the same.
- While grievance redressal forums are important for villagers affected by Naxalite violence, the constitution of the same is a state responsibility. Civil groups cannot take security into their own hands and no form of private violence should be allowed by the State. Moreover, the equating of Maoist and state violence, where one justifies the other is highly problematic.

8. Increasing Communalisation

- The team observed that Dantewada and Jagdalpur are undergoing a visible and large-scale Hinduisation. Corporate Social Responsibility (CSR) money is also being spent on the construction of parks, temples and dharamshalas in the town areas. All across the highway and roads, saffron flags on the dividers and boards with BajrangDal and Vishwa Hindu Parishad messages are prominent. Such a changing social – cultural balance, in tribal areas, needs further investigation.

RECOMMENDATIONS

To the Supreme Court of India

1. The Supreme Court must constitute a high level judicial enquiry to enquire into the reported cases of Human Rights atrocities perpetrated by the police and state armed forces in the four districts of Chhattisgarh.

To the High Court of Chhattisgarh

1. Institute a Judicial enquiry by a present of former High Court Judge into the false arrests of seven villagers from Kankipara Village, Kuakonda Police Station, Dantewada District on April 11, 2016.
2. The High Court should ensure that justice is served in the case of rape and sexual violence as well as plunder and the looting and destruction of property by state armed forces and the police in the villages of Korcholi, Itavar, Doval Nendra in Sukma District. The High Court must also monitor provision of adequate compensation to all affected villagers.
3. Institute a Judicial Enquiry by the sitting High Court Judge in the matter of journalists who have been jailed as well as the harassment of media personnel, legal practitioners and researchers in Chhattisgarh.
4. The increased number of extra-judicial killings is of grave concern to any society. We demand that all 'encounter' cases be brought under judicial review through a High Court panel investigation and action taken in a time-bound manner.

To the Government of Chhattisgarh

1. Along with Kartami Pandu, others residents of Kankipara village arrested are Katti Padiyami (40), Hunga Kartami (30), Pirung Sori (35), Aaytu Podiyami (35), Kosha Podiyam (28), Raju Manda (38) and Rame Podiyami. The villagers confirmed that none of them are Naxalites. The State Government must ensure that they are produced before the court of law at the earliest.
2. Implement the constitutional provisions of the Fifth Schedule in letter and spirit to empower the village panchayats for the better management of tribal forestlands and their rights. The Fifth Schedule of the Constitution of India states that it is the Governor of the State who will administer the Fifth Schedule areas of the State by appointing a Tribes Advisory Council from among the Scheduled Tribes living in that forest. It is the Tribes Advisory Council, a Panchayat, who will administer their reserve forest. No new projects should be implemented without the participation and consent of the concerned Gram Panchayat or Gram Sabha. The current Tribes Advisory Council in Chhattisgarh is headed by the Chief Minister, and thus is against the spirit of the Vth schedule.
3. Initiate a dialogue with a wide range of stakeholders including the Maoists and other political parties to resolve the conflict in Chhattisgarh. The four districts of Sukma, Bijapur, Dantewada and Bastar, with strong presence of CPI- Maoists are heavily militarised with the presence of personnel from District Reserve Group, Central Reserve Police Force (CRPF), CRPF's specialised unit, Commando Battalion for Resolute Action (CoBRA) and Border Security Force (BSF) which is

in complete violation of the 5th Schedule, Panchayats (Extension to Scheduled Areas) Act.

4. Ensure that the process of granting the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act 2006 is carried out in a free and fair manner as according to provisions of the law across the four districts of Chhattisgarh.
5. The illogical, detrimental and disproportionate militarisation in South Chhattisgarh needs to be withdrawn. The Government should declare a time-bound plan of demilitarisation and implement the same with urgency.
6. Repeal the Chhattisgarh Special Public Security Act (CSPSA) as a step towards demilitarisation of the Bastar region.
7. Enact a law for the protection of journalists in the state, with inputs from local stakeholders such as the civil society, journalist's groups and unions.
8. The Government must ensure that journalists, lawyers, researchers, activists and others are able to work in an environment that does not restrict their freedom of speech, expression and assembly. The State must facilitate, rather than impede their physical security.
9. Appoint a commission of enquiry, monitored by the Bilaspur High Court on the allegations against the IG Bastar, S. R. P. Kalluri. Ensure that an officer of integrity from the police is part of the official team.
10. In the case of all persons, be they former or current member of the Maoist groups, due processes of the law must be followed.
11. Initiate a departmental inquiry into the role of the local police and IG Kalluri personally in creation and support to vigilante groups such as the Samajik Ekta Manch and the Naxal Peedit Sangharsh Samiti. As it appears and is being alleged by the locals, these vigilantes group is not just state-supported but also initiated and facilitated by the Police.

To the National Human Rights Commission

1. Ensure that the guidelines of the National Human Rights Commission on encounter killings and deaths in police custody are strictly adhered to and followed by the state of Chhattisgarh.
2. Constitute a special bench in the Commission, comprising of various experts including former members of the judiciary, the administration, academia and activists, having a proven record, to enquire into the cases of human rights violation by armed forces in the past one decade in Chhattisgarh. The Special Bench after a detailed enquiry should submit the report to the Commission for necessary interventions.
3. Appoint a Special Rapporteur in Chhattisgarh who on a timely basis appraises the Commission regarding situation on the ground. The appointed rapporteur should not be from the police or armed forces.
4. Make its report on the investigation on Chhattisgarh available for the public and hold consultations with concerned civil society groups for subsequent measures.
5. Ensure that the Focal Point for Human Rights Defenders at the Commission is able to undertake an independent visit to Chhattisgarh and hold meetings with all the defenders who have approached the Commission under distress.

6. Villagers from Sukma District have named members of the District Reserve Group responsible for rape and sexual violence as well as extra-judicial killings of unarmed villagers. Ensure that all cases of human rights violations by SPOs and DRGs are independently investigated in a time bound manner. Following the independent investigation use all provisions of Protection of Human Rights Act 1993 to ensure justice for the victims of these violations.