



CHHATTISGARH

An Indian State in Conflict

***Observations and findings
of the International Association of People's
Lawyers (IAPL) Fact Finding Mission
on the Human Rights Situation
in Chhattisgarh, India
particularly of the Advisasis in the Bastar Region
October 2007***

TABLE OF CONTENTS

I. Background	1
II. Chhattisgarh: Indian state in conflict	3
III. IAPL Fact-Finding Mission	5
IV. Legal analysis	5
A. Legal framework	5
B. Violations of fundamental rights	8
V. Recommendations	13

**CHHATTISGARH:
AN INDIAN STATE IN CONFLICT**

**Observations and findings of the IAPL Fact Finding Mission
on the human rights situation in Chhattisgarh, India,
particularly of the Advisasis in the Bastar Region**



**International Association of People's Lawyers
Amsterdam, The Netherlands
May 2008**



CHHATTISGARH: AN INDIAN STATE IN CONFLICT

*Observations and findings of the IAPL Fact Finding Mission
on the human rights situation in Chhattisgarh, India,
particularly of the Advisasis in the Bastar Region*

I. Background

The International Association of People's Lawyers (IAPL) is an international organization of human rights lawyers mostly coming from countries where exploitation is most severe, human rights violations are widespread and the peoples' struggles most intense. It has members and chapters in Afghanistan, Brazil, Belgium, India, Nepal, Philippines, the Netherlands, and Turkey. It has observers and established solidarity linkages with lawyers from Argentina, Australia, Bangladesh, Canada, Colombia, Congo, Cuba, Japan, Germany, Greece, Mexico, South Korea, North Korea, Spain, United Kingdom and The United States.

In October 2007, the Indian Chapter of IAPL organized a Fact Finding Mission to observe and report on the situation in Chhattisgarh, a highly militarized area in the centre-eastern part of India. The Fact Finding Mission was composed of some of the IAPL Board Members as well as members of the Indian Association of People's Lawyers – the Indian Chapter of IAPL. A video team joined the Fact Finding Mission⁰. The Mission was composed of participants coming from Belgium, Brazil, the Netherlands, the Philippines, Turkey and India. They visited Raipur, Jagdalpur, Dantewara, and surrounding rural areas from 22nd October to 26th October 2007.

The Mission met and held discussions with different officials and persons in the district, including the Superintendent of Police of Dantewara, a Deputy of Prisons, human rights lawyers, scholars, representatives of NGOs and other international organizations, such as Medecins sans Frontieres and officials of a program supported by the United Nations International Children's Emergency Fund or UNICEF. The delegation also tried to set an appointment with opposition leader Mahendra Karma, reportedly the founder of Salwa Judum, but was unable to meet him.

The Fact-Finding Mission included visits to the "internally-displaced persons or IDP camp" in Dornapal and the abandoned villages in Penta and Dubbattota where they were able to interview a

number of tribal people. They also went to the Chhattisgarh High Court and the Raipur Jail to see and speak with lawyers and persons detained.

The Mission was also able to examine previous reports and commentaries by human rights organizations, women's groups, doctors, and experts on the ongoing conflict in Chhattisgarh, thus reconfirming the earlier reports on human rights violations in the areas visited.

The Mission observed the widespread and systematic involuntary displacement of people in the villages. Since the creation of the so-called Salwa Judum campaign in June 2005, tribal people have been forced to leave their villages and move more than 20 'relief camps' in Bastar and Dantewara.



II. Chhattisgarh: Indian state in conflict

The IAPL Fact Finding Mission visited Chhattisgarh, an Indian state situated in the centre-east of the country. The Chhattisgarh state has Raipur as its capital and is composed of 16 provinces: Korla, Surguja, Bilaspur, Korba, Raigarh, Jashpurnagar, Janjgir-Champa, Kawardha, Durg, Raipur, Mahasamund, Raj Nandgaon, Dhamtari, Kanker, Bastar and Dantewara. The Mission took place in the southern province of Chhattisgarh.

Chhattisgarh is a very green and fertile state, rich in flora and fauna. The state is very endowed with natural resources. The World Bank considers it one of the richest regions in the world.

Ignored under the British rulers, Chhattisgarh gained state status only in November 2000. Since then, exploration and discoveries of natural resources and plans for their exploitation have accelerated.

The district of Dantewara's main natural resources are the forest, minerals and medicinal plants. Its forests are abundant with iron, tin, kimberlitic, corundum, granite and silica.¹ Therefore, several big companies have large economic interests in the region, such as, Tata steel² and Essar steel³.

Nevertheless a vast majority (70 to 80%)⁴ of the Dantewara and Chhattisgarh population are tribal people (adivasis) and live in poor conditions with 80% of them living below the poverty line. Dantewara received the title of Scheduled Area, because of the vast presence of indigenous peo-

1 DISTRICT DANTEWARA CHHATTISGARH, "Natural resources in Dantewara district", <http://dantewara.gov.in/resources.htm>

2 <http://www.tata.com/>

3 <http://www.essar.com/>

4 CHHATTISGARH STATE, *Tribal Protests and rebellions*, <http://www.chhattisgarh.nic.in/profile/corign.htm#tribal>

ple. These scheduled areas receive special protection from the Constitution of India that provides for objective evaluation of the administration and control of the Scheduled Areas and the Scheduled Tribes in any State.

This protection seriously limits the ambitions of the numerous corporations who have invested in the region and who want to exploit the natural resources of the area.

Chhattisgarh, together with several eastern states in India (at this moment 12 other states) is home to a Maoist movement, the Naxalites. They have been active in the region since the sixties where they found wide support among the poor and marginalized local population. Because of their opposition to the Indian state's exploitation of the rich natural resources and the intrusion of the corporations, tribal people often sympathize with the Naxalites.

The Naxalites started their operations in Dantewara in the Eighties. The thickly forested jungle area was an ideal operating base for them to train and coordinate their activities in Chhattisgarh and other neighboring states. Today Naxalites or Naxals are present in 13 states and continue to expand.

After several attempts of the Chhattisgarh government to control the Naxalites movement in its territory, it decided in June 2005 to back the Salwa Judum campaign.

This campaign, initiated by the controversial local politician Mahendra Karma, has as its objective to free the Dantewada territory of any Naxal presence, to stop the expansion of the Maoist movement and in that way keep the control over the states' natural resources in order to protect the interests of the corporations in the area.

In order to achieve their objectives, Salwa Judum uses violent and brutal means to suppress the people.

One of the methods is to concentrate tribal people in so called "relief camps" with the approval of the Chhattisgarh state.

These operations are allegedly to protect the local population against the atrocities of the Naxalites. However, it is the Police corps as the Special Police Officers who commit atrocities to force the people to abandon their village. Although some of those interviewed told us they left their village because of violent acts committed by the Naxals, a number of persons testified that they are actually afraid of the government and Salwa Judum forces rather than the Naxalites.

The Salwa Judum campaign includes the recruitment of local people to the militia. They are given the title of Special Police Officers and receive a salary of 1500 rupees, paid to them by the Chhattisgarh state.

The Salwa Judum campaign is characterized by widespread intimidation and stigmatization. The Mission observed the discernible fear of the villagers and especially those in the camps to speak out freely. The people have been obliged to abandon their village under threat of being considered a member or supporter of the armed Naxalites. Local people find themselves caught between two armed camps, the Naxalites and the Militias from the Salwa Judum campaign.

This conflict in Chhattisgarh has affected the whole population of Dantewada, of 50,000 to 70,000 people living in inhumane conditions in the so called relief camps and another 300,000 that have fled their villages to unknown places.



III. IAPL Fact-finding mission

The IAPL was invited by its Indian chapter to visit, observe and report on the situation in Chhattisgarh. Accordingly, the IAPL organized the Fact Finding Mission with participants coming from Belgium, Brazil, the Netherlands, the Philippines, Turkey and India.

The IAPL delegation traveled to Raipur, capital of Chhattisgarh state, and from there went to Raipur, Jagdalpur, Dantewara, and the surrounding rural areas from 22nd October to 26th October 2007.

The Mission looked into the current situation of Chhattisgarh, and made a legal analysis of the reported human rights violations. In so doing, it hopes to contribute to breaking the silence that surrounds the situation of tribal people of Chhattisgarh.

IV. Legal analysis

A. Legal framework

The adivasis enjoy the protection of special laws. However this legislation has been neutralized by partial implementation and several new security laws.

■ Chhattisgarh

Chhattisgarh is an Indian state and falls under the authority of the Indian central government. In principle governors of states are appointed by the state authority and act on the directions of the federal ministers.

Because of its high number of adivasis (tribal people), Chhattisgarh is also a Scheduled Area. Scheduled Areas are areas with a high number of tribal people and fall under the protection of article 244 of the Indian Constitution.

To insure additional protection to adivasis, the Governor of the state has extensive executive powers. Article 244 (1) and (2) of the Constitution of India enabling the government to enact separate



The Asian Indigenous and Tribal Peoples Network (ATTPN) remembers the dramatic impact of the Forest Conservation Act of 25th October 1980. Under that act, “hundreds of thousands of indigenous peoples became illegal residents on land over which they have been living for generations. Yet, thousands of others also had legal rights under the Forest Conservation Act. For two and half decades, the state governments failed to record and recognize even limited those ancestral rights of tribal communities permitted by the Forest Conservation Act.”¹¹

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act was approved by the Indian parliament in 2006. This act approves, at least theoretically, the rights of the adivasis to their land. The act aims to recognize the right of the indigenous people to security of tenure and access to minor forest produce, and to render them as key stakeholders in the preservation of natural spaces.¹²

The Asian Indigenous and Tribal Peoples Network (ATTPN) though, states that the Act compromises further the rights of the tribes, since it gives priority to environmentalist issues without differentiating the tribal communities from the “other traditional forest dwellers” or “non-tribals”.

■ Special Security Acts:

Several acts on security matters give state authorities far reaching authority in the persecution of political dissents.

Along with the other security acts that have been adopted by the central government, the Chhattisgarh state has its own security act which is the “Chhattisgarh Special Security Act”.

The Chhattisgarh Special Security Act limits freedom of expression. Activities, very vaguely defined as “unlawful”, are punished with up to seven years in prison. Activities and participation in activities of certain organizations are considered unlawful based on very vague criteria.

11 ASIAN INDIGENOUS AND TRIBAL PEOPLES NETWORK, “India’s Forest Rights act of 2006: Illusion or solution”, 15 December 2006, <http://www.attpn.org/Issues/11-09-06-Forest.pdf>

12 <http://web.amnesty.org/library/Index/ENGASA200102007?open&of=ENG-254>

Human Rights Watch criticizes the act with the following words:

"In Chattisgarh state, which witnessed the most Maoist violence in 2006, the state government adopted a vague and overly broad law that allows for detention of up to three years for 'unlawful activities'. The term is so loosely defined in the law that it threatens fundamental freedoms set out by the Indian constitution and international human rights law, and could severely restrict the peaceful activities of individuals and civil society organizations."¹³

Other acts being implemented in Chhattisgarh are the "Unlawful Activities Prevention Act", the "National Security Act", the Disturbed Areas Act and Armed Forces Special Powers Act.

These acts enable the Indian security forces to persecute dissidents without need to justify the used methods. The security forces are allegedly practicing doubtful interrogation methods and are reported to be responsible for several disappearances and deaths in custody.

Human Rights Watch stated already in 2004 that "Indian security forces, including the military, paramilitary forces, and the police, routinely violate human rights with impunity. The Indian federal government rarely prosecutes army and paramilitary troops in a credible and transparent manner. The result has been an increase in serious abuses by security forces throughout the country.

Laws such as the Disturbed Areas Act and the Armed Forces Special Powers Act have spawned abuses in various parts of the country, including many deaths in custody, "disappearances", and widespread allegations of torture. Section 197 of the Criminal Code of Procedure gives security forces virtual immunity for crimes committed in the course of duty."¹⁴

This aforementioned legal framework forms the background of an escalating conflict. Although tribal people should receive the protection and organizational freedom guaranteed by article 244 of the Indian Constitution and the PESA Act, the

enforcement of these acts evokes many questions and fails to properly protect tribal fundamental rights.

The Security acts make it possible to persecute any dissenting voice and to control all activities in the state of Chhattisgarh in a way that the government and the corporations maintain their position and try to gain influence.

In addition, these laws are being applied to people whose lifestyle, with its beliefs, traditions, and customs, exist and operate on a different plain than the civilization for which the regular laws are formulated.

Behind this legal framework, the IAPL received reports and observed several serious violations of fundamental rights.

B. Violations of fundamental rights

The current situation clearly shows that one of the main methods that corporations and government employ to get rid of limitations is to remove the tribal people from their own lands. This is done by labeling the tribals as terrorists or supporters of terrorists.

Since the creation of the so-called Salwa Judum campaign in June 2005, tribal people have been forced to leave their villages and move to several 'relief camps' in Bastar and Dantewada.

The IAPL is deeply concerned with the violent and aggressive method used in this campaign, as well as the life conditions in the camps and long term impact of the campaign on the tribal people.

1. An illegal, violent and aggressive *modus operandi*

■ Displacement of civilians

The purpose of the Salwa Judum campaign is to concentrate tribal people in so called "relief camps". In the past two years and a half 350.000 people have been displaced this way and live outside their villages. 50.000 of them live in the re-

¹³ HUMAN RIGHTS WATCH, *World Report 2007, India*, <http://hrw.org/englishwr2k7/docs/2007/01/11/india14868.htm>

¹⁴ HUMAN RIGHTS WATCH 2006, <http://hrw.org/english/docs/2006/01/18/india12272.htm>
also: <http://hrw.org/english/docs/2007/11/20/india17381.htm>



refugee camps organized by the Chhattisgarh state. The fate of 300,000 others is uncertain.

This forced displacement of people is a clear violation of article 17 of the 2nd Geneva Protocol that prohibits the forced movement of civilians. Some villagers may have moved voluntarily to the camps because of fear of persecution by the Naxalites. Others however have been forced to leave their village after organized raids by the SPOs or by police.

People who refused to leave their villages have apparently been forced by SPOs who did not hesitate to use coercion, threats, intimidation, deception and violence for this purpose. Serious atrocities have been reportedly committed by these forces.

■ Civilians under attack

The IAPL Mission learned of people that had been killed, threatened or harassed, of women violated, of children being recruited to the SPO, of houses being burnt, and of properties looted in villages.

The victims of the Salwa Judum campaign and supported by the Chhattisgarh state, are mostly

civilians. The aggression on civilians is a direct violation of International Fundamental Rights and International Humanitarian Law.

IAPL refers therefore to Articles 6 and 7 of the International Covenant on Civil and Political Rights, of the Second Additional Protocol of the Geneva Convention relating to the protection of the victims of non international armed conflicts. The Convention protects the right to life and decrees that no one shall be subject to torture, cruel, inhuman and degrading treatment or punishment.

The Chhattisgarh state not only fails to give the civilian population the general protection from article 4 of the 2nd Protocol to the Geneva Convention, the attacks on civilians form specifically a violation of article 13 of that Protocol.

Instead of being protected by paragraph 1 against the dangers from military action, civilians are even the objects of attack in Chhattisgarh.

The Salwa Judum campaign is characterized by widespread intimidation. The IAPL Mission observed a discernible fear by villagers and especially camp inhabitants to speak out freely. People were obliged to abandon their villages under



him that MSF is supplying the Maoist injured in police encounters with medical services. MAF is no more allowed to provide medical aid to the Naxal affected villages.¹⁵

Although Médecins Sans Frontières has recently been able to resume its activities, the aforementioned imposed measures of the Chhattisgarh government violate articles 9, 10 and 11 of the 2nd 1977 Geneva protocol. The Chhattisgarh authorities not only fails to give the medical teams of MSF the necessary protection, it limits the help they can give to a target group.

2. Inhuman conditions in camp

Life conditions in the “relief camps” are inhuman. The Mission observed that camp inhabitants had been given small parcels of land on which they constructed primitive and cramped houses. Before the tribal people were forcibly placed in these hamlets, their villages were well organized entities that benefited from a productive agricultural activity. But they were obliged by the Salwa Judum to leave their homes and fields and live stock for an uncer-

tain life in the camps. The living conditions in the camps do not comply with the “satisfactory conditions of shelter, hygiene, health, safety and nutrition” imposed by article 1 of the 2nd Geneva protocol.

The conditions are even more deplorable considering the environment which tribals are used to live in. Tribals are largely self-sufficient, free roaming, much better nourished and are in possession of an internally well defined identity and dignity. They are in their large houses on their own lands, with their own animals, gardens, fields, forests, rivers etc. They govern themselves in mainly or relatively equalitarian communities.

In the camps, however, all these are taken away from them. Captive and at the mercy and will of others, supposedly higher authority figures, they assume a depressed and lethargic attitude towards life. They become dormant subjects of some cruel experimentation.

Several persons we spoke to expressed their earnest desire to go back to their villages, residences,

¹⁵ ASIAN TRIBUNE, “India: Chhattisgarh Government asks Médecins Sans Frontières (MSF) to stop providing health services to indigenous people”, <http://www.asiantribune.com/index.php?q=node/6875>

SIDESTORY: Kawasi Baman in Nayapara

On 16th May 2007 Kawasi Baman and 6 others from Avatpalli and Korsaguda came to search for work and it was a natural choice for them to stay the night in Baman's ancestral village.

The day was a Wednesday, market day in Dantewada, but they couldn't get any work. It appears that a police informant conveyed to someone in the police that "some Naxalites have taken shelter in Nayapara.

The next morning, i.e. on 17th May 2007, at about 10 am, in broad daylight, a hastily constituted "flying squad" of the police consisting of about 6 persons came in a jeep and suddenly surrounded and opened fire on the 7 adivasis, who after having their meal were just getting ready to leave in search of work.

Two persons, both of village Korsaguda, were killed on the spot. Four persons jumped the bamboo enclosure and fled away in fright towards the jungle and have been missing since. Children of the village have testified that after the shootout, the police took out a rusty "bharmar bandook" (country made rifle) and put it next to the dead bodies.

They raided Gangi Bais' house and took away her silver ornaments including her waist belt, a tin box of all her precious possessions, a children's school bag containing school books and the ration card of her neighbour which was lying in her house.

Kawasi Baman, who kept standing at the spot, was picked up by the police. The next day he was "presented" to the press, visibly terrified, handcuffed and seated on the floor, as a dreaded Naxalite of the "Peoples militia Raka dalam".

farms and livelihood. Camp inhabitants who attempt to leave the hamlets are intercepted, returned to the camp and even punished.

This virtual detention in the camps is counter to the Freedom of Movement of article 13 of the Universal Declaration of Human Rights.

The IAPL witnessed scores of children living in the camps, a high percentage of which are reportedly unaccompanied by their parents. We were informed that there have been several cases of children in resident schools that have been deported to the camps without the consent or the knowledge of their parents.

3. An uncertain future for tribal people

The inhabitants of Chhattisgarh are confronted with uncertainty in the long term. Several inhabitants of the IDP camps expressed their anxiety about their future. Although they are now temporarily being fed by the camp authorities, they have no certainty about how long ration cards will be provided. Their houses and farms are abandoned. They don't know when they will be able to return to their villages and what they will find upon their

return. Credible information that the Mission received indicates that most of them have lost the right to their lands since they do not register their lands.

In actuality, the conditions and programs in the camps do not provide real and sustainable opportunities for empowerment. They even encourage indolence despite superficial showcase projects and gimmickry. The Salwa Judum is exploiting the poverty of the tribal people and their vulnerable state to entice them to join the ranks of the Salwa Judum.

The IAPL delegation was informed of mistreatments committed by the camp authorities on the camp inhabitants.

The IAPL wants to emphasize the right self-determination that is stipulated in article 1 ICCPCR and has been applied in article 244 of the Indian constitution, in the Panchayat Extension to Scheduled Areas Act and partially in the Scheduled Tribes and Other Traditional Forest Dwellers Act, but has been ignored by the Chhattisgarh authorities in their policy towards the ongoing conflict.



V. Recommendations

The IAPL strongly criticizes the aforementioned violence committed by the parties involved in the conflict. The IAPL urges the Indian government to immediately realize the following:

- Respect human rights and international humanitarian law in the Chhattisgarh conflict and in other similar places and make accountable the violators
- Stop the Salwa Judum campaign and all related and similar persecution of political dissidents based on broad anti-terrorism measures that should be repealed or amended
- Allow people to freely return to their villages and respect their right to self-determination particularly to directly benefit from any economic activity in their areas
- Provide immediate assistance for their reintegration, rehabilitation, indemnification and compensation
- Allow the conduct of more comprehensive, thorough, independent international fact-finding missions with access to all camps and abandoned villages and other parts of the conflict to supplement the observations and findings of other individuals and groups and implement the freedom of movement for villagers, letting them decide if they want to stay or go, while planning a staged phase-out of the camps as the situation evolves.
- Improve the life conditions of tribes in Chhattisgarh state and adequately address their health, educational and employment needs and provide their other basic social services
- Protect lawyers and other human rights defenders involved in helping the tribal people from harassments and threats and those questioning the illegal practices in this regard.
- Allow the United Nations Special Rapporteurs on Indigenous Peoples, on Extrajudicial Killings, Arbitrary and Summary Executions and other concerned international bodies to visit and look into the practice of creating “internally displaced persons” and widespread reports of human rights violations.

ADDENDA

Addendum 1: Agenda of fact finding mission

DATE	ACTIVITIES
21st October	Introduction to Chhatisgarh conflict, realized by Journalist X
22nd October	Arrival at Raipur Introductory conversations with: Sudha Bharadway, advocate in Raipur, lawyer of Dr. SenDr. Sharma, publisher, former administrative officer, former ombudsman tribal relations
23rd October	Arrival at Jagdalpur Conversation with Dr. Pratap Narayan, advocate specialized in cases for tribal people Arrival at Dantewara Conversation with Lingoo Markans and Himanshu Kumar, project managers UNICEF in IDP camps
24th October	Domabal camp: chat with three persons, visit of project Visit of villages Penta (3pers) and Dubbattota (2 pers)
25th October	Médecins sans FrontièresCourt, chat with
26th October	Visit of Jail in Raipur Conversation with Sebastian about lawyer K.D. Roa