

Incompatibility of Security Laws and Human Rights: Case of Naxalite Movement and Tribals in Odisha, India

Debendra Kumar Biswal

Assistant Professor, Department of Contemporary and Tribal Customary Law, Central University of Jharkhand, Ranchi, Jharkhand- 835205

Corresponding author: debendra.biswal@cuj.ac.in

Received: 12-04-2020

Revised: 20-07-2020

Accepted: 30-09-2020

ABSTRACT

In India, several special security laws in the naxalite affected are responsible to violate national and international human rights guarantees, both by the naxals and security forces. The indigenous tribal people are experiencing three kinds of human rights violation due to naxalite movement; firstly, naxals are involved in killing, abduction, summary trial, execution and torture of civilians; secondly, security forces are responsible for arbitrary arrest, illegal detention and torture and thirdly, chronic forms of HR violations like right to life, land, development induced/conflict induced development, displacement due to security reasons, forest laws and others. This paper is an empirical study in the naxalite affected Koraput region in the state of Odisha to have a critical examination of the extent of human rights violations and tries to locate the contradictions of the stand poised by the government of India and International human rights legal framework. Secondly, to identify the limitations of international human rights laws, especially IHL and UDHR to deal with specific population groups like tribals in India. Finally, it argues for alternative ways for the protection of Human Rights of the indigenous populations in the conflict areas.

Keywords: Security laws, naxalite, Koraput, human rights, tribals, populations

In the conflict areas, several special security laws¹ provide extensive powers to security forces; to arrest, to detain without trial and can “shoot to kill” on suspicion and exempt them from prosecution. It is argued that in absence of executive sanctions, these laws violate national and international human rights guarantees spawning a culture of impunity (Sundar 2006; ACHR 2007 and Borooah 2008). Similarly, since the last two decades the naxalite/maoist problem in India has been seen primarily as a major ‘internal security threat’ and tried to deal with it through the use of military and paramilitary forces². This security perspective of naxalites issue equates the naxalites with terrorists³. In this conflict, there are three major parties; naxals, government and the tribals or *adivasis*. Both the

naxalites and the state security forces are responsible for large scale human rights violations (right to life, liberty and security; legal rights) of the poor tribals. Very often the statutory state law⁴ has been interpreted to favour the security personnel and at the same time it is being misused by the security personnel. At the same time Government of India is a signatory to the UN’s Universal Declaration of Human Rights (UDHR) and United Nation’s Declaration of the Rights of the Indigenous Peoples (UNDRIP), which advocates for the protection of human rights of the tribal communities

How to cite this article: Biswal, D.K. (2020). Incompatibility of Security Laws and Human Rights: Case of Naxalite Movement and Tribals in Odisha, India. *Int. J. Soc. Sci.*, 9(03): 159-168.

Source of Support: None; **Conflict of Interest:** None



in India. Thus, the military approach and the ongoing conflicts contradict GOI's position at the UN, that "India does not face either international or non-international armed conflict. Therefore, it raises a question that there are weaknesses in the international and national human rights laws by which we are unable to protect the rights of the tribals, may be not taking into confidence the chronic issues like land, self governance and other indigenous mechanisms of livelihood, which are giving rise to these conflicts.

Naxalite Movement and Human Rights Violations in Odisha

At present, 21 out of 28 states of India are affected by armed conflicts⁵. Naxalite movement originated as a left wing extremism –a split of the Communist Party of India (CPI-M) in the 1960s to advocate for peasantry against the state power and lead to a wholesale militarisation and a kind of civil war in the 1990s (Banerjee 2003 and Sundar 2006). As a conflict it has demonstrated presence across over 200 (out of 630) districts across 12 Indian states, a contiguous "Red Corridor"⁶ from Nepal to northern fringes of Tamil Nadu. In the eastern state of Odisha, 18 out of 30 districts have been affected with this movement. They run parallel administration in nearly 44 districts of India.

These areas are basically inhabited by the indigenous/tribal peoples and have been synonymous to a tribal movement against the state (Roy 2011; Pandita 2011 and Bhattacharjee 2017). Thus, the human rights of the tribals have been violated both by the naxalites and security personnel. The naxalites are involved in killing, abduction, summary trial and execution and torture of civilians on the charge of being "police informer", for not obeying their diktats or members of the anti-naxal civilian militia such as "Salwa Judum" in the state of Chhatisgarh. The security forces are responsible for arbitrary arrest, illegal detention and torture, particularly during anti-insurgency operations. In addition, they are experiencing several chronic forms of human rights violations like right to life, land, development induced/conflict induced development, displacement due to security reasons, forest laws and others.

The naxals are responsible for the human rights in the affected areas in the form of killing of civilians⁷, traders^{8,9,10}, grassroots level political representatives^{11,12,13,14,15} and officials in the name of 'police informer', kidnapping of the public servants¹⁶ is one of the most serious human rights violation perpetrated by the naxalites. The killings were often carried out in front of local people and in a manner to maximize suffering. The killings appear designed to build fear amongst local communities.

Another form of violation of right to life is torture, which involves inhuman/degrading treatment or punishment. In an incident, maoists reportedly abducted six villagers, including a village head in Malkangiri district. They were tried in a so-called *Jan Adalat* (Peoples' Court) on charges of being "police informers" and the *Jan Adalat* found all the six guilty. As punishment, they were tortured by the Maoist cadres (The Hindu, 4 March 2008). The killing of security personnel in a very inhuman tactic is another aspect of grave human rights violations by the naxalites. For instance, Just before the panchayat polls in 2012, the maoists blew up a vehicle in Malkangiri killing four officers of the BSF. They used lethal IED to trigger the blast¹⁷. Their main target is the security personnel convoy, not to worry whoever is travelling in it¹⁸. For the first time in the country, a 1.5 kg IED pressure bomb was planted by Maoists inside the stomach of a CRPF jawan killed in an encounter with the rebels in Latehar, Prototype which explodes on being disturbed¹⁹.

Within the naxalite organization too several forms of organised human rights violations are found. Sexual harassment of the women cadres, up to leading to suicides is reported in several maoist camps. The women cadres in the southern districts complain that the naxal organization pursue the poor tribal children to join naxal movement, while they send their own children to the English medium public schools²⁰. Naxals in Chhatisgarh are allowed to get married but they are forced by their senior leaders in undergoing vasectomy surgical procedure to prevent them from having children²¹.

The Security Forces or paramilitary forces and the local police are also directly or indirectly responsible for several categories of human rights of the people residing in the affected areas. Enforced disappearance

and extra-judicial killings/fake encounter remain entrenched in conflict areas, reinforced by extraordinary powers of arrest, detention and immunity available to the security forces. Maoists claim that even their top leaders are killed in fake encounter. Maoist leader Kishenji was killed in fake encounter, but the CRPF denies²². However, there are conflicting stands on the events of fake encounter. For instance, on the killing of a tribal villager by the police and paramilitary Central Reserve Police Force (CRPF) during an anti-maoist operation near Kutuniganda village under Adaba police station in Gajapati district of Odisha, one of the injured victims states that “they were fired at by the security personnel when they were searching for their cattle in the jungle”²³. The Officer-in-Charge of Adaba police station claimed that “the security forces were defending themselves from an attack by a group of suspected Maoists”²⁴ and finally the victims family had to file a petition in the Odisha State Human Rights Commission (SHRC) seeking appropriate compensation and justice²⁵. In another incident of fake encounter, the police claimed that the victim was a Maoist, but the SHRC observed that there was no injury on any police personnel or mark of violence at the spot and there was also no material to suggest that the deceased belonged to any Maoist group. Thus it is a genuine encounter and ordered to pay compensation of rupees one lakh to the deceased family²⁶. Finally, the state government complied with the recommendation of the SHRC²⁷.

Arbitrary arrest, unlawful detention and torture by the security forces have been a routine work in the conflict zones or naxal affected areas in Odisha. A lawyer in Bargarh district was arrested for possible naxalite link and facilitator for the naxalites to the district, but later on it was proved to be wrong²⁸. Also denial of access to justice for the suspected naxalites who have been arrested by the police and languishing in the jails is well evidenced. There is already the lack of police system in the naxal affected villages. For instance, in some parts the villagers travel more than hundred kilometres to reach police station²⁹.

The suppression of the human rights defenders by the state in the naxalite areas has been so grave that the Supreme Court of India in *Nandini Sundar and others v.*

State of Chhattisgarh, July 2011 had to express its deep concern in this way “The situation in Chhattisgarh is undoubtedly deeply distressing to any reasonable person. What was doubly dismaying to us was the repeated insistence that the only option for the State was to rule with an iron fist, establish a social order in which anyone speaking for human rights of citizens [is] to be deemed as suspect, and a Maoist”³⁰. Even the freedom of Press has been violated. In 2015, the New York based Committee to protect Journalists (CPJ) alleged that two journalists in Chhattisgarh were arrested, harassed and abused by the police to silence their critical reporting or to compel them to serve as informants³¹.

Naxalism and Human Rights Laws

There are two major ways of locating the existence of human rights laws in the naxal affected areas; firstly, International Humanitarian Laws (IHL) and secondly, the Universal Declaration of Human Rights (UDHR), 1948. The modern International Humanitarian Law is made up of two historical streams: the law of The Hague referred to in the past as the law of war proper and the law of Geneva or humanitarian law. It is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict, protects persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare. The IHL has six major provisions for the protection of life of the persons who are not involved in the conflict; not to violate the laws of war (Article 3 & 4 of Geneva Convention), not to forcibly displace civilians (Article 17), not to make civilians objects of armed conflicts (Article 13 -2), not to recruit child soldiers, not to target schools and other public facilities and not to destroy means of survival of the civilian population (Article 14, Additional Protocol II). Based on UDHR Principles, consequently several rights provisions were enacted for specific populations groups; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) adopted in 1979, United Nations Declaration of Rights of the Indigenous Peoples (UNDRIP) and many more are relevant to justify the rights of the tribal communities in the naxal affected areas of India. As a signatory to the UDHR, the entire international laws are applicable

in India. Very recently, the Government of India implemented the Protection of Human Rights Act, 1993. Empowered with Section-2(d) of this Act, the state of Odisha has formulated Orissa State Human Rights Commission (OSHRC) to investigate human rights violations within the state of Odisha by the state agents. However, ethnographic evidences show that there are many violations which are neither reported by the commission nor have any action taken for the armed forces and police due to certain immunity provided to them.

Incompatibility of International and Indian Laws

(A) Nature of Naxalite Movement

The first issue of conflict between the international laws and Indian law to deal with naxalism is related to the nature of conflict between naxala and the state. Two questions are raised; is this movement an armed conflict or not and is it an international or internal armed conflict? Article 3 and 4 of the Geneva Convention (12th August 1949) of IHL provides for Protection of Victims of Non-International Armed Conflicts (Protocol II) and guarantees for “all persons who do not take a direct part or who have ceased to take part in hostilities, whether or not their liberty has been restricted” and “to respect for their person, honour and convictions and religious practices”. There is no settled definition of the term “armed conflict” which is used freely in both the Geneva Conventions and the Additional Protocols of IHL but is not defined in either. The term ‘armed conflict’ has been defined by the International Tribunals as, “[A]n armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organised armed groups or between such groups within a State”.

Based on the minimum criteria of armed conflict defined by the IHL, the conflict between the armed forces and the naxals can be termed as an armed conflict. The government of India is also agreed that naxalite movement started in India a way long back in 1967 has been arms based, believe in political power and a number of violent clashes between the naxalites and the armed forces of the State have happened so far. They are organised themselves on the pattern of classical

communist governance system and have rejected the parliamentary system of governance and capitalist philosophy. Due to the above scenario, the armed violence between the naxalites and the State’s armed forces has got both the intensity as well as the duration to be termed as an “armed conflict” under IHL.

However, the situation prevailing in India due to naxal movement cannot be termed as an International armed conflict as the conflict between the naxalites and the State’s armed forces is very much within the border lines of India only. It is just an internal arm conflict on the line of ICC Statute (22) in Art.8 para. 2(f) which provides for a definition of Non-International Armed Conflict as follows: “It applies to armed conflicts that take place in the territory of a state when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups”. Again the additional protocol II supports it by saying that this instrument applies to armed conflicts, “which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol.”

If the conflict between the Naxalites and the State’s armed forces is recognised as an internal conflict, it will be beneficiary to both the parties and the civilians, as the IHL will have to be followed and the violations of the basic and fundamental human rights will not happen. But if it is considered as a situation where the IHL will be applicable, it will have some serious implications. The State’s armed forces as well as naxalites will have to follow and respect it. The naxalism will get the attention of the international community and international organizations will try to have a situation where the violations of IHL are minimum and the violators are punished.

(B) Use and Displacement of Civilians in this Conflict

On the issue of displacement of civilians for reasons related to the conflict, Article 17 of the Additional

Protocol II prohibits it unless “the security of the civilians involved or imperative military reasons so demand”. However, ethnographic findings show that there are large instances of displacement in naxal affected areas of Odisha and Chhatisgarh. More than fifty thousand civilians were displaced from their villages as a result of the Salwa Judum (state sponsored army against naxals) campaign in Chhatisgarh. A large number of displaced persons reportedly fled to neighbouring Andhra Pradesh and Odisha.

(C) Attack of Civilians

On the issue attack on civilians either by naxals or security personnel, the domestic laws have not been able to adopt the international standards of human rights as defined by IHL and UDHR. Article 13(2) of the Additional Protocol II of IHL states that, “The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited”. Under the Convention against Torture (CAT, the state can take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction (Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Part 1, Article 2). Article 5 of the Universal Declaration of Human Rights, and Article 7 of the International Convention of Civil and Political Rights (ICCPR) provide that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. India being a signatory member of the ICCPR prohibits torture of any kind.

According to the National Crime Records Bureau, in 2009 alone, 220 complaints were alleged or received against police personnel in the state. Of the 220 complaints lodged, only 20 police personnel were sent up for trial and 10 of these cases were withdrawn or disposed off, whilst no case was completed, and no convictions or acquittals were made. Unfortunately, these police officers and security personnel seem to enjoy widespread impunity for their actions.

The Government of India is yet to ratify this convention. Ratification is to be preceded by the enactment

of a domestic law. The Prevention of Torture Bill, 2010 (PTB) was referred to a Parliamentary Select Committee of the Upper House in August 2010. Considering representations from human rights groups, the Committee substantially revised PTB, which now partially³² complies with CAT. The PTB must prohibit cruel, inhuman or degrading treatment and punishments³³.

Table 1: Reported cases of torture by the police and security forces in Odisha

Year	Total No. of Cases Registered	Cases Registered against Police and Security Forces
2003-04	920	59
2004-05	1408	328
2005-06	1367	547
2006-07	1413	513
2008-09	2219	837
2010-11	2421	834

Source: Crime in India, 2009, National Crime Records Bureau, available at: <http://ncrb.nic.in/CII-2009-NEW/Statistics2009.pdf>

In the naxalite affected areas, the joint mission of local police and paramilitary forces “is to promote security, prevent trans-border crimes, unauthorized immigration and other illegal activities”. However, the security forces themselves were responsible for extrajudicial executions, arbitrary arrest, detention and torture. The state government estimates that as many as 137 persons lost their lives in various incidents of firing by the security forces during 1980-2005^{34,35}.

The security forces are also responsible for enforced disappearance and extra judicial killings of innocent people³⁶. The UN Convention on Enforced Disappearances (CED) is to be followed by the signatory countries. But enforced disappearances and extra judicial killings are yet to be codified as offences under criminal law. In 2006, it was held that it is to be done at the level of state parties under the International Convention for the Protection of All Persons from Enforced Disappearance. Again, the legal process of investigation, accountability and justice is not followed properly. The Government of India is yet effort to ratify it.

A large number of *adivasis* have been arbitrarily arrested in Central India and languish in jail³⁷. Only in Chhattisgarh 147 persons were detained under CSPA in 2010. Arbitrary arrest and detention in conflict zones is largely carried out through the use of special laws like the Chhattisgarh Special Public Security Act and Article 9(1) of the ICCPR states that “everyone has the right to liberty and security of person”. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.” Moreover, Article 9 of the ICCPR makes it mandatory that the reason for arrest and the charges against the accused be clarified before every arrest, and all arrested individuals should be promptly brought to court. Additionally, article 22 clause 2 of the Indian Constitution states that the detainees have to be produced before a magistrate within 24 hours of their arrest. The UN Working Group on Arbitrary Detentions has opined that the use of preventive detention laws by the Indian government should conform to international standards and obligations of the Government of India and that India should consider bringing domestic law in line with International law (mainly referring to PSA)³⁸.

The state has empowered the armed forces to ‘shoot to kill’, arrest, demolish structures, and conduct warrantless searches on mere suspicion. Measures are being taken to further enhance powers of the armed forces. For instance, a new law, the Border Security Force (Amendment) Bill, 2011 seeks to widen the scope for deployment of BSF for counter-insurgency and ‘anti-Naxal’ operations with additional powers of ‘search, seizure and arrest’. At present, the state police personnel have this power.

According to the ICCPR, “the right to life and the protection against torture and ill-treatment requires rigorous oversight by the State over the use of forces by their law enforcement agencies”. Due to the supreme character of the right to life, international law establishes that “the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities”³⁹. Accordingly, state parties have to settle in their domestic law the conditions under which it is lawful for public agents to resort

to the use of force. The Code of Conduct for the Law Enforcement Officials endorsed by the United Nations General Assembly in 1979, states that the use of force is an exceptional measure. In particular, it establishes that the law enforcement officer permits the use of force only when strictly necessary and to the extent required for the performance of their duties⁴⁰. Sexual assault by security forces is widespread, but rarely are cases of rape investigated or punished. In Chhattisgarh, six women raped by members of *Salwa Judum* still await justice from the Court and many other complaints of sexual violence in Central India are yet to be probed.

(D) Use of Children

The use of children or target of schools has been taken seriously by IHL as defined by the Rome Statute of International Criminal Court. There is absolute prohibition on the use or recruitment of children as fighters, informers or career of arms. Further, it expects that governments must not spread the conflict nor measures be taken to disturb tranquillity or access to public facilities.

The United Nations has observed that the Maoist armed groups are recruiting and indoctrinating children and had constituted children’s squads and associations as part of mass mobilization (UN 2011). The children are being recruited by Naxals through intimidation and abduction and were used in support roles, including as lookouts, messengers, porters and cooks. At the same time the Maoists are attacking the schools meant for children. Maoist armed groups destroyed 258 school buildings, mostly in Chhattisgarh, Jharkand and Bihar, of which 21 schools were destroyed between January and November 2011 (UN 2011). The state is also trying to use the tribal children in this conflict. The government of Odisha had sanctioned 5600 post for SPOs in three phases since 2009 where in tribal youths were drafted for a period of three years to supplement the efforts of the district police to take on the left wing extremists. There is criticism of recruiting children as SPOs even from the highest court of the land i.e. Supreme Court of India. The Supreme Court said the Centre and the governments were “playing a dangerous game” by recruiting tribal youth as special police officers (SPOs)

and arming them with sophisticated weapons to fight naxals. “Over 18 years of age, class five pass and two months training to become an SPO? Is that all that is required to handle sophisticated weapons? What is their accountability? You are playing a dangerous game. If these so-called SPOs turn against you, then God save the country,”

According to Universal Declaration of the Rights of the Child (UDRC), “a child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth”. The declaration of the rights of the child declare that, “to the end that he may have a happy childhood and enjoy for his own good and for the good of society the rights and freedoms herein set forth, and calls upon parents, upon men and women as individuals, and upon voluntary organizations, local authorities and national government to recognise these rights and strive for their observance by legislative and other measures progressively”. The Indian Government is following UDRC as well as constitutional norms to protect its children.

(E) Protection of ESCR

In conflict zones, militarisation has also led to denial of Economic, Social and Cultural rights of the tribal communities (ESCRs). For that the IHL in its Article 14 of the Additional Protocol II provides that “Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.” Besides, there are seven fundamental rules which cannot be violated by any party to an armed conflict at any point of time. These rules are meant to secure the life and freedom of the civilians as well protection of the fundamental rights of the State forces’ and the naxals, who are constantly showing the disrespect towards these rights of the other.

But, evidences are that use of hospitals and schools by the army and paramilitary is common in the naxal affected villages. The Supreme Court has acknowledged

the practice and ordered security forces to vacate schools in Chhattisgarh since 2007, however nothing much has been done⁴¹. In Central India, the tribal population living in forests has been forcefully displaced by security forces. According to the Internal Displacement Monitoring Centre, 148,000 people are living in camps in central India. The Supreme Court had ordered the petitioners in the case to prepare rehabilitation plan, the starting point of which was to conduct a survey but the state government is refusing to act on it. The Right to Self-determination guaranteed by the UN Declaration on the Rights of the Indigenous People has been violated in these areas.

(F) Immunity to Security Personnel

Special security laws and Section 197 of the Criminal Procedure Code (Cr.P.C) grant immunity to public servants and members of the armed forces for acts committed in the discharge of their official duty. Alleged crimes can be prosecuted only with previous sanction of the state or central government. In practice, such sanction is almost never granted, leading to a culture of impunity for human rights abuses. Recent official data confirms that sanction is almost never granted for crimes committed by the armed forces. Moreover, NHRC doesn’t have regular investigative powers over offences committed by armed forces, further exacerbating their lack of accountability (*The Protection of Human Rights Act, 1993, Sec 19*).

CONCLUSION

Rather than looking the naxalites conflict as a ‘law and order’ problem and making the affected area as a ‘military zone’, it is more important to look it as “root causes” perspective; a product of structural, cultural and direct violence of tribal/indigenous people as a category of ‘subaltern’ to protect their human rights. To understand the nature and minimization of human rights violations in the naxalite affected areas, it is imperative to know the specific socio-economic context, the nature of stratification, the specific political history of the area, the issues of agency that explain why certain individuals join the Naxalites/Maoist and state ideology, as well as the logic of Maoist militarization and state responses.

END NOTES

1. For instance, Chhattisgarh Special Public Security Act, 2005 (CSPSA) and Chhattisgarh Auxiliary Armed Police Act, 2011 are blamed for the creation of state-sponsored counter-insurgency militia *Salwa Judum* and 'Special Police Officers' (SPOs). Violating the spirit of the Court's order, SPOs have been reabsorbed into the Chhattisgarh Auxiliary Armed Force through law. All three- security forces, SPOs and naxalites are responsible for inflicting human rights abuses.
2. But many argue that naxalism/Maoism is a resistance movement of indigenous/tribal people against corporate acquisition and privatisation of land, mineral and other resources; low level of economic & social development and reconciliation & dignity. The Government of India also agrees with this concern, as the former Minister of Rural Development, Mr. Jairam Ramesh stated that "The long-festering socio-economic concerns of the weaker sections of society must be addressed meaningfully if the influence of Naxal groups is to be countered effectively". Similar view is maintained by the present government at the Centre since 2014.
3. India's Ministry of Home Affairs as well as security experts have always maintained that "Naxals are nothing but cold blooded murderers" and no longer have a revolutionary ideology and are a self-seeking group of extortionists out to destabilize the country and impede "development," which is understood to mean industrialization.
4. State law is consciously produced through consensus by the machinery of government consisting of legislation, administrative regulations and modern common law.
5. The seven North-Eastern states have been affected by armed conflicts over demands of self-determination and autonomy.
6. ACHR Report 26, "The *Adivasis* of Chhattisgarh" states that the Red Corridor is a term used to describe an impoverished region of eastern India which have experienced considerable naxalite/ communist militant activity and also infamous for illiteracy, poverty and overpopulation. These are parts of Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Karnataka, Madhya Pradesh, Odisha, Uttar Pradesh and West Bengal.
7. On 30 April 2008, one Bhaskar from Warangal district in Andhra Pradesh was killed by the Maoists near MV70 village under Kalimela police station in Malkangiri district on the charges of being a police informer (*The Hindu*, 1 May 2008).
8. On 17 January 2008, suspected Maoists stabbed a local trader Bijay Kumar Degul to death. Dinabandhu at Sanpalmanda village in Kabiribedi *panchayat* of Bandhugaon block in Koraput district. A group of six Maoists, including two women allegedly tied both of them to two adjacent trees on the outskirts of the village before stabbing Bijay Kumar Degul to death on the charge of being a "police informer"(Maoists stab trader to death in Koraput, *The Pioneer*, 19 January 2008).
9. On the night of 1 May 2008, suspected Maoists killed a liquor trader Nala Brundaban (45) by slitting his throat at Karli village in Koraput district. The villagers found a hand written letter near the body saying the Maoists had killed him for being a "police informer"(Maoists kill liquor trader, *The Hindu*, 3 May 2008).
10. A road contractor was killed in Narayanpatna of Koraput district on 11th May 2012. Maoists claim that he was not paying properly to the poor tribal labourers, police informer (12.5.2012 *Samaj*).
11. In April 2008 alone, the Maoists killed at least three village heads -Raba Sudha of Urbali village under Motu police station in Malkangiri district, Madkami Kanha of Peta village under Motu police station, Jagabandhu Sunam, another village head (Village head shot dead by Maoists, *The Hindu*, 13 April 2008).
12. The Maoists killed numerous Village Heads (*Sarpanch*). They included the following: - Jaga Madhi, village head of Malavaram village Malkangiri district, who was killed on 27 March 2008 (Village head shot dead by Maoists, *The Hindu*, 13 April 2008). Madkami Kanha, village head of Peta village under Motu police station in Malkangiri district who was shot dead on 9 April 2008 (Village head shot dead by Maoists, *The Hindu*, 13 April 2008). - Raba Sudha, village head of Urbali village under Motu police station in Malkangiri district, who was shot dead on 12 April 2008 (Village head shot dead by Maoists, *The Hindu*, 13 April 2008) and - Ponda Reddy, village head of Peta under Motu police station in Malkangiri district, who was shot dead on 17 November 2008 (Maoists kill village head, *The Statesman*, 18 November 2008).
13. On 27 May 2008, suspected Maoists shot dead Biju Janata Dal's Malkangiri district Secretary, Prabir Kumar Mohanty at MV-79 village in Malkangiri district. Mr. Mohanty was abducted by the Maoists when he was on his way to the market on the night of 26 May 2008 (Maoists gun down BJD leader, *The Pioneer*, 28 May 2008).
14. They killed a political leaders and leave a poster near to him with a writing that "*Ek number police dalal*". Maoists kill BJP leader, village headman, *Indian Express*, 7.6. 2012.
15. On 22nd may 2012, on the name of police informer, the husband of a lady sarpanch was publicly killed in the Jan Adalat by the Bansdara division of maoist (Mao netanka madhyare mataveda, 26.05.12 *Samaj*).
16. Even they don't hesitate to abduct the district magistrates and sued in the peoples' court. The then district magistrate of Sukuma was abducted by the naxala in April 2012 (Tadi melare heba praja court: aji muktahebe Sukuma zillapal, 3rd May 2012, the *Samaj*).
17. Maoists ambush 4 BSF men. *Indian Express*, 11.02. 2012.
18. The Maoists over 35 personnel of elite anti-Maoist force Greyhounds of Andhra Pradesh in an attack on their vessel

- in Balimela reservoir near Alampetta village in Malkangiri district on 29 June 2008 (Maoist strike leaves 36 jawans missing, *The Tribune*, 30 June 2008) and over 20 personnel of Special Operations Group (SOG) who were killed in a landmine blast in Malkangiri district on 16 July 2008 (21 Orissa cops feared killed by Maoists, *The Tribune*, 17 July 2008).
19. Maoists plant bomb in CRPF jawan's body. *Indian Express*, 11.01.2013.
 20. Mao camper *mahilanku nirjatana nei bibhinna sthanare* poster, *The Samaj*, 18.2.2012.
 21. Chhatisgarh naxals forced to do vasectomy before marriage. *Indian Express*, 01.02. 2012.
 22. Kishenji killed in fake encounter: maoist. *Indian Express*, 26.11.2011.
 23. Tribal shot dead in encounter; tension in Orissa, *The Deccan Herald*, 24 November, 2008 and one killed in police firing, *The Hindu*, 24 November 2008.
 24. One killed in police firing, *The Hindu*, 24 November 2008.
 25. Victim of 'fake' encounter approaches SHRC, *The Hindu*, 28 November 2008.
 26. OHRC orders compensation, *The Statesman*, 19 August 2008.
 27. State pays ₹ 1 lakh compensation to victim of police action, *The Hindu*, 11 November 2008.
 28. Lawyer arrested for maoist links. *Indian Express*, 19.05.2011.
 29. 29 Maoist-hit villagers travel 100 kms. to reach police station, *Times of India*, 15.12.2013.
 30. "Between Two Sets of Guns- Attacks on Civil Society Activists in India's Maoist Conflict", 30 July 2012. Available in <https://www.hrw.org/report/2012/07/30/between-two-sets-guns/attacks-civil-society-activists-indias-maoist-conflict>.
 31. Press freedom groups call for release of Indian journalists. Available in <https://www.theguardian.com/media/greenslade/2016/jan/20/press-freedom-groups-call-for-release-of-indian-journalists>
 32. There remain certain areas of concern in the draft Prevention of Torture Bill: (a) It introduces death penalty for those causing death by torture (Sec 4(2) of the revised Bill); (b) The definition of torture is restrictive and doesn't encompass the full range of the CAT definition (Sec 3); It also defines cruel, inhuman or degrading treatment or punishment narrowly; (c) There is a two-year statute of limitation starting from the date when the offence was committed, after which the complaint becomes time barred; (d) The compensation scheme under Sec. 4 does not take moral damage into account; (e) The Bill has no provision codifying non-refoulement; (f) There are no provisions for prevention of torture; (g) The Bill does not recognize state responsibility for prevention of torture committed by private individuals; (h) There is no provision excluding evidence obtained by torture; (i) Prohibition of incommunicado detention or detention in secret places is absent.
 33. The Supreme Court held that in view of "the provisions of Art 21 of the Constitution of India, the State must protect victims of torture ill treatment as well the Human Rights defender fighting for the interest of the victims... Therefore the State must ensure prohibition of torture, cruel, inhuman or degrading treatment to any persons particularly at the hands of any State agency/police force (See *Prithipal Singh Etc v. State of Punjab & Anr Etc.*, Criminal Appeal No. 528 of 2009, Supreme Court of India, Criminal Appellate Jurisdiction, 4 November 2011, para 7).
 34. Asian Center for Human Rights.
 35. In one incident, about 20 persons, including women and physically-challenged persons, were injured, four seriously, after they were beaten up by the personnel of the central reserve police force during an anti-naxalite in the Kalimela area in the Malkangiri District.
 36. On the night of July 7, 2006, the Central Reserve Police Force (CRPF) personnel fatally shot Sirimajhi, a landless tribal daily wage earner, in Rayagada. The next morning police informed Mali Palekka, the wife of the deceased that her husband was injured in an encounter with the security forces and was arrested on the charges of being a naxalite. According to the police, the deceased succumbed to his bullet injuries during the night. However, in a complaint before the OSHRC, the deceased's wife claimed that her husband was suffering from dysentery and he was shot dead (Asian Centre for Human Rights).
 37. An RTI application filed by Chhattisgarh Mukti Morcha revealed the presence of 2,499 detainees in Chattisgarh (including Kanker and Jagdalpur districts). Most of these detainees are adivasis (Working Group on Human Rights Report, UN, 2011).
 38. Opinion no.45/2008 (India) adopted on 26 November 2008, Opinions adopted by the Working Group on Arbitrary Detention, Human Rights Council Thirteenth Session, 2 March 2010, A/ HRC/13/30/add.1, paras.51&53, available at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-30-Add1.pdf>.
 39. UN Human Rights Committee, General Comment 6 (April 30,1982)
 40. Code of conduct for Law Enforcement Officials, UNGA Res. 34/169(December 17,1979), Article 3
 41. See: *Nandini Sundar and Ors v. State of Chhattisgarh*, Supreme Court, Writ Petition (C) No.250 of 2007, paras 18, 25, 26 ; Also see: *Ibid* Interlocutory Appeal No.7 of 2011, order dated 18/11/2011.

REFERENCES

- ACHR. 2007. Asian Centre: "Naxal Conflict Monitor," *Asian Centre for Human Rights*, 2(1).
- Banerjee, Sumanta. 2003. "Naxalites: Time for Introspection", *Economic and Political Weekly*, 38(44).
- Bhattacharjee, Kishalay. 2017. *An Unfinished Revolution*, New Delhi: Pan Macmillan Publishing.
- Borooah, Vani K. 2008. "Deprivation, Violence, and Conflict: An Analysis of Naxalite Activity in the Districts of India", *IJCV*, 2(2): 317 – 333.
- ACHR. 2007. "War in the Heart of India, An Enquiry into the Ground Situation in Dantewada District, Chhattisgarh," <http://rightsandresources.org/blog/WarintheHeartofIndia.pdf> (accessed July 16, 2007), pp. 8.
- Pandita, Rahul. 2011. *Hello Bastar: The Untold Story of India's Maoist Movement*, Chennai: Tranquebar Press.
- Roy, Aundhati. 2011. *Broken Republic: Three Essays*, New Delhi: Penguin Books.
- Sundar, Nandini. 2006. Bastar, Maoism and Salwa Judum. *Economic and Political Weekly*, 41(29): 3187-3192..