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SUBMITTED BY  
INDIA JUSTICE PROJECT & LONDON MINING NETWORK

IN COOPERATION WITH  
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**A. EXECUTIVE SUMMARY**

1. During India's previous Universal Periodic Review, violations of rights of the Indigenous (Adivasi) peoples have not played a significant role due to a lack of engagement by member states. Therefore, this submission presents insights into the ongoing attack by the Indian government and corporations on the Adivasi communities through a case-study of the state of Chhattisgarh.
2. Since the Universal Periodic Review of India in 2017, no progress has been made on the few recommendations supported by the government on the situation for Adivasi peoples, and instead the situation of their rights has been regressing.
3. Adivasi communities represent a substantial proportion of the Indian population. As per the 15<sup>th</sup> Indian Census of 2011, India is home to over 100 million Adivasis, 10 % of whom live in Chhattisgarh.
4. Rather than a progressive realization of India's international obligations, the state of Chhattisgarh has seen a sharp increase in extractive and other so-called development projects that have been causing irreversible damage to the environment and people.
5. Chhattisgarh is a state with abundant mineral wealth. The state ranks second in the nation in terms of total forest land diverted for mining purposes. The brunt of this diversion is being faced by the Adivasi communities in the area, as the Indian government has introduced successive laws and policies that reverse existing constitutional and statutory guarantees for the well-being of the Adivasis. The mining areas have been a witness to illegal acquisition of land, widespread displacement, inadequate rehabilitation and compensation, and devastation of the environment.
6. Decades of oppression and dispossession have resulted in an insurgency in the south of Chhattisgarh. The response of the Indian government has resulted in innumerable human rights violations of the Indigenous people, ranging from illegal long-term detentions, extra judicial killings, sexualized violence, and torture. Even now, as the dispossession of Adivasis accelerates for extractive and other projects, Chhattisgarh is witnessing a manifold increase in deployment of security forces, further exacerbating the conflict. As the state engages in full scale warfare in the area, it refuses to officially recognize the situation as an internal armed conflict. This official dithering over nomenclature enables the state to ignore relevant international principles.
7. Over the last few years, the military response has been raised higher, leading to the persecution of human rights defenders, lawyers and journalists documenting, seeking redress, and bringing attention to increasing human rights violations in the area. Adivasi women demanding accountability for state excess remain particularly vulnerable.
8. This submission details six areas of grave concern where human rights violations are abundant and increasing:
  - Right to free, prior, and informed consent
  - Right to safe environment and health
  - Right to sacred sites and traditional cultural properties
  - Right to life, liberty, and security of the person
  - Administration of justice, including impunity and the rule of law
  - Fundamental freedoms and participation in public and political life

## **B. METHODOLOGY**

This submission has been compiled with guidance from and in consultation with movement leaders and civil society actors in Chhattisgarh and has been prepared by the submitting organizations for the Universal Periodic Review of India 2022.

## **C. BACKGROUND**

9. Located in central India, the state of Chhattisgarh comprises about 30% Indigenous population, accounting for 10% of the overall Indigenous population of India (Census, 2011).<sup>1</sup> The Indigenous peoples of India are classified as Scheduled Tribes (ST), with special provisions for the protection of their rights, identity, and livelihoods. While the land and its forests are economically, culturally, and spiritually essential for Indigenous peoples, it is also rich in minerals such as iron, coal, bauxite, and others, making Chhattisgarh one of the most mineral-rich states in the country.<sup>2</sup>
10. At present, Chhattisgarh is going through a massive loot of timber and mineral resources and ranks second in India in terms of total land lost to existing and planned mining projects. Both the Indian government and corporations have an interest in the exploitation of its mineral wealth. India is estimated to have the highest number of people displaced because of so-called “development” projects – between 65-75 million – since 1947. Among those displaced, 40% are Indigenous people.<sup>3</sup>
11. Despite its wealth in natural resources, Chhattisgarh is mired in poverty as evidenced by the high infant mortality rate and high maternal mortality rate<sup>4</sup> and high malnourishment levels among children<sup>5</sup>. In the most recent Human Development Index (2007-2008), Chhattisgarh stood at the bottom of the list of all Indian states, with an HDI of 0.3588<sup>6</sup> making the Adivasis of Chhattisgarh historically one of the most marginalized populations in India.
12. The Indigenous communities in Chhattisgarh are mainly engaged in subsistence agriculture and are heavily dependent on forest produce for their everyday needs. But mining and industrial projects, have caused deforestation, polluted rivers, destroyed water sources, and uprooted traditional villages.<sup>7</sup> Against their claims, these projects have seldom brought any tangible benefits to the local Adivasi populations.
13. Against the backdrop of relentless landgrabs, dispossessions, destruction of their land, lives, livelihood and culture, Bastar Division (Bastar) in the south of Chhattisgarh, has also been a site of an ongoing armed conflict for over three decades.<sup>8</sup> Divided into seven districts, Bastar is roughly the size of Belgium (33,000 sq. kms.) with a population of 2.7 million, of which two-thirds is of Indigenous origin.
14. While for a long time, the region remained unpenetrated by the administrative control of the Indian State, the resource-rich land has attracted both state and corporate interests. Consequently, the independence once enjoyed by the Adivasis has reduced considerably. The Indian state’s “development” promises have yet to reach the communities in the region, while extraction of resources continues.
15. India has refused to recognize the conflict in Bastar as an internal armed conflict by actively keeping its scale hidden and avoiding any scrutiny over the violent actions against the Indigenous communities in the region. Bastar has become one of the most militarized regions

in the world.<sup>9</sup>

16. The Indian state's response in Bastar has been increasingly militaristic, flooding the region with battalions of security forces and has refused to engage in any peace-talks with Indigenous peoples in the region. This has resulted in unprecedented and continuous human rights violations committed against the Adivasis by the Indian State. The growth and spread of military power in Bastar are intrinsically linked to the question of land acquisition for corporations.

#### **D. STATUS OF IMPLEMENTATION FROM THE PREVIOUS REVIEW**

17. Since the UPR of India in 2017, no progress has been made on the few recommendations accepted by India and the situation of Adivasi peoples in Chhattisgarh and the violation of their rights has worsened.
18. In the previous UPR cycle, India accepted recommendations specifically referring to Adivasis, recognizing the need to ensure that laws are enforced properly to protect them and to prevent violent acts against them.<sup>10</sup> However, in the past 5 years, laws protecting their rights to their land and forests have been diluted and violence against them has increased.<sup>11</sup>
19. India further accepted recommendations with respect to Business and Human Rights in order to ensure that the business sector complies with international and national human and labor rights; to enforce environmental protections and policies; and to ensure access to safe drinking water.<sup>12</sup> However, Chhattisgarh has seen a sharp increase in extractive and other development projects, causing irreversible damage to the environment, impacting Adivasis' access to safe water and worsening health outcomes.<sup>13</sup>
20. India further accepted two recommendations with respect to the use of force by security forces: to avoid excessive use of force<sup>14</sup> and to respect the principles of proportionality.<sup>15</sup> However, there have been numerous cases of extra judicial killings, sexualized violence, and torture of Adivasis in the region.<sup>16</sup>
21. India has also accepted five recommendations with respect to combating violence against women and to take effective measures to protect their rights.<sup>17</sup> However, sexualized violence by security forces against Indigenous women is rampant and regularly used as a weapon by the military and paramilitary forces to silence and repress Adivasi communities.<sup>18</sup>
22. India also accepted one recommendation with respect to communication surveillance.<sup>19</sup> In 2020, it came to light that human rights defenders, amongst others, were targeted with the spyware technology "Pegasus", and other intrusive surveillance techniques such as Netwire.<sup>20</sup> "Pegasus" is exclusively sold to state actors.<sup>21</sup>
23. India has repeatedly expressed its commitment to ratify the UN Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (UNCAT). India also voluntarily pledged to give effect to such ratification while presenting its candidature for the membership of the UN Human Rights Council (UNHRC) in its elections held in 2011, 2014, and 2018 based on which it is currently serving as a member of the Council. But India has still not ratified the UNCAT.
24. **Recommendations:** Government of India should

- i. without further delay, implement all supported recommendations of the previous UPR cycles.
- ii. ratify the UNCAT and fulfill its international obligation by putting in place an effective mechanism for accountability.

## **E. VIOLATIONS OF THE RIGHTS OF INDIGENOUS PEOPLES**

25. The Indigenous peoples in Chhattisgarh face the heavy impact of development, conservation-induced displacement, and environmental destruction disproportionately, while the benefits are mostly accrued by corporations and non-locals. Additionally, the Adivasi peoples face severe oppression when trying to defend their collective and individual rights to land, forest, and water.
26. India is party to various international human rights treaties that are important for the protection of Indigenous peoples.
27. Although India does not recognize Adivasis as Indigenous peoples *per se*, it grants constitutional recognition to “Scheduled Tribes” (STs), based on a combination of historical, cultural, and socio-economic factors. The Constitution of India and various progressive laws such as The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 [Forests Rights Act – FRA]<sup>22</sup> and Panchayat (Extension to Scheduled Areas) Act 1996 (PESA)<sup>23</sup> recognize the rights of Adivasis to self-governance of their land and resources. Since 2014, the Indian government has diluted these laws and introduced laws and policies that reverse existing guarantees of self-governance and tenure rights to Adivasis.<sup>24</sup>
28. **Right to Free, Prior, and Informed Consent (FPIC):** The UNDRIP (Article 3), UN Charter (Article 1 (2)), ICESCR (Article 1(1)) and ICCPR (Article 1 (1)) all recognize a right to self-determination. UNDRIP (Article 4) states that Indigenous peoples have the right to autonomy or self-government in matters relating to their internal and local affairs. It further emphasizes the rights of Indigenous peoples to make decisions through their representatives and put responsibility on the state to obtain FPIC before taking any steps that may affect them, especially concerning their lands (Article 18 and Article 28).
29. The principle of FPIC is mirrored in various Indian laws. The 5<sup>th</sup> Schedule of the Constitution of India read with the Chhattisgarh Panchayati Raj Adhiniyam, 1993<sup>25</sup> (“CPRA”) recognize rights of self-governance over land, forests, and resources within Scheduled Areas which includes the right to FPIC. FRA provides for individual and collective rights and lays down the conditions for relocation only with their ‘free informed consent’. PESA provides that a village assembly (Gram Sabha), shall be consulted before the state can take over any land in the Scheduled Areas. While shortcomings regarding the implementation of constitutional and statutory guarantees have always been present<sup>26</sup>, the Indian government, in recent years, has mainly been concerned with easing access of private corporations and extractive projects to Indigenous people’s land, instead of progressively realizing these constitutional guarantees.<sup>27</sup>
30. Laws like the FRA 2006<sup>28</sup>, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR),<sup>29</sup> the Indian Forest Act 1927 (IFA),<sup>30</sup> the Coal Bearing Areas (Acquisition and Development) Act 1957 (CBA)<sup>31</sup> and the Forest (Conservation) Act 1980 (FCA)<sup>32</sup> are being purposefully amended, evidently to curb the rights of the Adivasis. Many of these amendments and “legal reforms” have been enacted during the pandemic-induced lockdowns, putting severe restrictions on public consultations.<sup>33</sup>

31. In Chhattisgarh, consultation rights are frequently violated in four main ways<sup>34</sup>: First, often the village assemblies (Gram Sabhas) are not consulted or their objections ignored;<sup>35</sup> second, “No Objection Certificates” are forged or obtained under threat by the state police or security forces.<sup>36</sup> Third, outdated laws like CBA which doesn’t require prior consultation are being used to acquire land instead of laws like LARR which mandatorily require FPIC. Fourth, Adivasis are not informed about their rights, many are simply unaware that they have the right to refuse, for example, ‘voluntary relocations’ from Tiger Reserves.<sup>37</sup> Additionally, access to any kind of information is a difficulty since most times information is available only in languages not spoken by the communities.
32. A representative example is the Korba District in the north of Chhattisgarh, one of India’s top coal producing districts, accounting for over 20% of the country’s coal.<sup>38</sup> 41% of the population comprises of Indigenous people<sup>39</sup>. Currently there are 13 operational coal mines and 4 more are likely to start their operations soon. Two of the biggest coalfields are Korba and Hasdeo Arand.
  - i. The Hasdeo coalfields<sup>40</sup> comprise around 23 coal blocks located under the forested region of Hasdeo Aranya, a 5th Schedule area, which spans through Korba, Sarguja and Surajpur districts. The region has one of India’s largest contiguous tracts of forest- cover (170,000 hectares).
  - ii. In 2009, the Hasdeo forest was classified as a “No-Go Area” for coal mining based on a joint study conducted by the Ministry of Coal and Ministry of Environment, Forests and Climate Change (MoEFCC).<sup>41</sup> A recent report by the Wildlife Institute of India<sup>42</sup> substantiates the ‘No Go area’ status for the forest because of their irreplaceable, rich biodiversity, and socio-cultural values.<sup>43</sup>
  - iii. Despite long-standing protests by residents and wildlife activists, coal fields are being auctioned by the Indian government. In 2013, mining was started in two coal blocks<sup>44</sup> and another block was auctioned in 2015.<sup>45</sup> At present, only two blocks are operational, but more blocks have been put on auction in the recent years.<sup>46</sup>
  - iv. The MoEFCC recently gave clearance for further coal blocks in the region.<sup>47</sup> The affected villagers filed a complaint against this clearance, saying that the documents shown by the government are forged and that they never gave consent.<sup>48</sup> Further, an investigation by the district administration found that Adani Enterprises Ltd. had illegally acquired the land of 32 farmers of Ghatbarra (which lies within the forest).<sup>49</sup>
  - v. In 2015, 20 village assemblies unanimously passed a resolution against the auction of coal mines in the region, but the resolutions were ignored by the state and coal blocks within the forest were put on auction.<sup>50</sup> In 2016 community forest rights that had been granted to the residents of Ghatbarra village were cancelled by the state,<sup>51</sup> alleging that the villagers were causing disturbances to the mining operations. There is no provision within the FRA for the cancellation of recognized rights in this way.
  - vi. Further, on Dec 24, 2020, the central government invoked the CBA for acquiring over 5000 hectares of land for four different coal mining projects in the region.<sup>52</sup> The villagers have been protesting this ever since.<sup>53</sup> As per the affected communities, land acquisition notices were issued under CBA without the consultation with and consent of the affected communities.
  - vii. The Indian government, while having admitted the environmental significance of the Hasdeo forest, continues to acquire and auction forest land for mining. The report by

Wildlife Institute of India has flagged the issue of human-elephant conflict in the region because of encroachment of natural habitat due to mining. In the past three years, this resulted in the death of 200 people and 45 elephants.

33. **Recommendations:** Government of India should
- i. remove all administrative and political obstacles that prevent Adivasis from exercising their rights to FPIC and recognize and implement these rights in both their individual and collective dimension, and especially in mining and conservation areas; reinstate Forest Rights that have been illegally withdrawn.
  - ii. diligently implement the FRA, PESA, LARR Act, and ensure the right to FPIC as mandated by its obligations under ILO Convention No. 107 and the UNDRIP; recognize the rights of Adivasis to live in, manage and protect their own land and forests, including in Protected Areas.
  - iii. withdraw all amendments to the FRA, LARR, the IFA, CBA, and the FCA that infringe on the rights of Indigenous peoples.
  - iv. immediately ratify ILO Convention No. 169 and adopt the national policy in line with the Convention.
  - v. immediately stop forced evictions of Adivasis and other forest dwelling communities during conservation projects and end illegal evictions from Tiger Reserves and other protected areas.
  - vi. reinstate 'No Go' status to areas of high socio-cultural and environmental value, such as the Hasdeo Aranya.
  - vii. halt any mining and other industrial projects that are violating Indigenous rights, or the environmental and social conditions stipulated in their permissions.
  - viii. ensure accountability of both state and non-state actors in cases of evictions, dispossession, or acquisition of land through illegal means.
34. **Right to safe environment and health:** UNDRIP (Article 29) identifies rights of Indigenous peoples to the protection of their environment, and ICESCR (Article 12) recognizes the right of everyone to enjoy the highest standard of health.
35. The generation of electricity by coal-fired thermal power plants carries serious risks to the physical and mental health of miners, plant workers and residents in the vicinity of mines and power plants due to exposure to unhealthy high levels of toxic heavy metals and carbon found in air, water, soil, and sediment.
36. Mining regions in Chhattisgarh like Korba are heavily impacted because of the mining activities. Korba is designated as a "severely polluted area" by the Central Pollution Control Board.<sup>54</sup> A 2020 study by the State Health Resource Center, Chhattisgarh, found that environmental pollution is above the permissible limit, Aluminum was found to be higher than permissible limits in water samples, and the existing levels of fly ash were found to affect the soil, water and air in Korba.<sup>55</sup> The study further found that health problems were more common close to the Hasdeo power plant. These symptoms were also found in men and women not working at the plant site but living close to the areas where fly ash residue is found.
37. Similarly, the Raigarh District in the north of Chhattisgarh is currently home to 17 coalmines, 26 sponge iron units and over 13 thermal power stations, either already operational or under construction. Another report found that health-related complaints amongst individuals located

within a two-kilometer radius of power plants and coal mines were significantly higher than other areas.<sup>56</sup>

38. **Recommendations:** Government of India should

- i. immediately stop mining activities that cause substantial harm to the environment on which communities depend.
- ii. immediately decommission mining activities and coal-fired power plants like in Hasdeo and Raigarh that severely impact the communities residing in the region and harm the environment.

39. **Right to sacred sites and traditional cultural properties (TCP)** : For the Adivasi peoples, sacred sites, and TCP are of extreme importance for the preservation of their culture and society. In Chhattisgarh, these sacred sites are part of the natural landscape; often, in whole or in part, they are also the site of mineral wealth and are therefore subjected to state-sanctioned extractive projects. UNDRIP (Article 12) recognizes the right of Indigenous peoples to access, use and protect sacred and cultural sites. Mining and militarization desecrate and destroy sacred sites, and therefore, violate the integrity of many Adivasi cultures.

40. Raoghat Mining project and Dalli Rajhara Rowghat Railway Project are prime examples of this.<sup>57</sup> The Raoghat hills, within the Raoghat mining lease area, in the south of Chhattisgarh, are a sacred site for local Indigenous communities.<sup>58</sup> Any encroachment or destruction of the locations of the sacred sites would effectively destroy the cultural heritage of the Adivasis in the region. Despite continuous objections by the communities, the Indian state has been proactively conducting mining operations and building railway lines for transportation of coal from the region. This has led to dispossession of the Adivasi people from their lands, and severely impacted their culture.

41. Another example is the struggle against the mining project of Bailadila 'Deposit 13' in Dantewada district in the South of Chhattisgarh, which is a sacred site for the local Adivasi Peoples.<sup>59</sup> Dantewada has more than 76% Adivasi population and is a Schedule 5 Area. The Bailadila project is a joint venture between two public sector companies and Adani Enterprises Limited, among India's most powerful private corporations. Since a couple of years, the affected Adivasi communities have been protesting the mine and the way forest clearance was granted - the village council resolutions as per the communities were forged and falsely submitted.

42. Mines constructed in forested regions are also heavily fortified by security camps with armed forces, which have severely disrupted the everyday life of the community.<sup>60</sup>

43. Adivasis living in and around wildlife sanctuaries - e.g., Achanakmar Tiger Reserves in the north of Chhattisgarh, face severe restrictions - making it impossible for them to go about their daily lives, collect medicines or worship in their forest.<sup>61</sup>

44. There have been instances where Adivasis gathered in their villages for cultural activities were indiscriminately fired upon by security forces. For instance, in 2013, in the village Edesmeta in south of Chhattisgarh, security forces, without any provocation, fired upon villagers celebrating Beej Pandum (seed sowing festival).<sup>62</sup> The eight villagers who died were later declared by the state as insurgents, and the festival as an insurgent meeting. Nine years after the incident, a judicial commission found that all were villagers and that the accusations by the police were false.<sup>63</sup>



45. This increase in criminalization of people and brutalization of their land and lives has resulted in a situation where Adivasis do not feel safe to live and practice their culture freely.
46. **Recommendations:** Government of India should
- i. consult and gain FPIC of the affected Indigenous communities when their rights to a sacred site or TCP are likely to be affected in any way.
  - ii. terminate the forced acquisition of sacred sites and TCPs for activities that violate Adivasi rights to religion and culture.
  - iii. discard falsely obtained consent documents and conduct a fair FIPC proceeding for acquisition of land in cases like Bailadila deposit 13 and Raoghat.
47. **Right to life, liberty, and security of the person:** The UNDRIP emphasizes the need for demilitarization of Indigenous lands. Article 30 of UNDRIP further directs the state to conduct prior consultation before diverting Indigenous land for military purposes. The Indian government has accepted the recommendation with respect to the use of excessive force by security forces and police. Article 7(2) of the UNDRIP explicitly states: *“Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence.”*
48. India is also party to the Geneva Conventions, 1949, which it signed and ratified in 1950. Common Article 3 of the Geneva Conventions applies specifically to the case of ‘armed conflict not of an international character’ and is applicable even in regions that are within a country’s boundaries. It lays down a set of ‘minimum’ binding standards on all parties, including the protection of medical neutrality, and prohibitions against violent attacks on civilians, prisoners, and the wounded; as well as against torture, mutilation, humiliating and degrading treatment, and extra-judicial killings. It is part of the customary international norm and thus a mandatory obligation on members states.
49. Bastar is dotted with military camps every few kilometers. Since 2014, Chhattisgarh is witnessing a manifold increase in deployment of security forces, resulting in unprecedented levels of violence of putatively genocidal dimensions and human rights violations. New battalions are announced regularly, new formations of state police are being stationed throughout Bastar and with every passing week, new paramilitary camps are fortified all over the countryside. There has been a steep escalation in military deployment in the area in multiple waves in 2014,<sup>64</sup> 2016,<sup>65</sup> and again in 2018.<sup>66</sup> The government has also increased the recruitment of local Adivasi youth as Special Police Officers, pitting them against the local population and generating a civil war-like situation.<sup>67</sup> This defies the Supreme Court decision of 2011 holding the practice of recruiting local Adivasi youth for counter-insurgency purposes unconstitutional.<sup>68</sup> A fact finding conducted in 2015 found that approximately 60,000 to 100,000 armed forces have been stationed in the south of Chhattisgarh.<sup>69</sup>
50. Paramilitary and police camps are often set up close to the villages. Villages located amid paramilitary camps and police stations are subjected to frequent restrictions. Villagers are often expected to inform the police about every meeting they are to undertake in the village and a failure to inform implies an allowance on part of the forces to presume that the meetings might not be legal in nature.
51. Contrary to the dominant narrative that the deployment of security forces is meant to combat a decades-long insurgency, evidence shows that the militarization has more to do with mineral extraction and industrialization.<sup>70</sup> For example, 22 paramilitary camps fortify the Raoghat

Mines.<sup>71</sup> Security forces also enable the building of wide, heavy-duty roads for access through Adivasi areas without their consent.<sup>72</sup>

52. From the available data, between 1991 and 2007, 3703.75 acres of land were acquired for military purposes in Bastar alone, without any FPIC.<sup>73</sup>
53. In the past two years there have been more than a dozen protests against the acquisition of land for security camps, e.g., in Silger village in Sukma District in the south of Chhattisgarh. There, villagers, under the banner of “Moolvasi Bachao Andolan” (Save Natives Movement), protested the government’s acquisition of their land for military camps without their consent.<sup>74</sup> The government has tried to suppress their genuine demands, like it did in other areas in the region, with violent means. In May 2021, security forces fired upon protesting villagers from Silger in broad daylight. Three died from the shooting at the spot and one pregnant woman died few days later because of the chaos ensuing at the protest site following the firing.<sup>75</sup>
54. Security forces have been committing serious atrocities, ranging from extra-judicial killings, sexualized violence, illegal detentions, and torture with complete impunity.<sup>76</sup> Few such instances are listed below:
  - i. Between 2005-2011, Salwa Judum (“purification hunt”), a state sponsored armed vigilante movement burnt down and emptied out 644 villages and committing hundreds of extra-judicial killings, and sexualized violence. In the first few months alone, several hundred villagers were evicted and herded into camps. Over the next few years, this number would increase to 350,000.<sup>77</sup> Despite a Supreme Court order in 2011 for the state to register cases against perpetrators, no action has been taken for a single act of violence since.
  - ii. Between 2011 and 2013, various mass killings were carried out by state forces. In 2012, 17 villagers were killed in one night while gathering to plan a festival the next day. The state justified this action by claiming they were all part of the insurgent movement. A judicial commission- formed in the aftermath of the incident by the State government, found that those killed were innocent villagers.<sup>78</sup> No action has been taken against the perpetrators since the report was published.
  - iii. From 2013 till present extra-judicial killings of the Indigenous people have increased. In most cases, villagers are illegally picked up, killed, and presented as insurgents.<sup>79</sup>
  - iv. Between October 2015 and January 2016, three cases came to light in which around 30 women were sexually assaulted by security forces. Both the National Commission for Scheduled Castes and Scheduled Tribes and National Human Rights Commission corroborated claims of the victims and yet, six years later, the officers involved have not yet been prosecuted.<sup>80</sup>
55. **Recommendations:** Government of India should
  - i. recognize Bastar region as an area of non-international armed conflict.
  - ii. replace military tactics with political initiatives and peace dialogue with the Adivasi communities in Bastar region.
  - iii. rapidly demilitarize Adivasi areas and immediately commit to not building any further security camps in Adivasi areas without FPIC.
  - iv. disband outfits like Special Police Officers and similar militia groups in accordance with the Supreme Court order on the disbandment of Salwa Judum.

- v. protect civilians in all instances of violence, particularly at the hands of state security forces.
  - vi. take appropriate measures to end sexualized violence against Adivasis and prosecute perpetrators accordingly.
  - vii. stop the use of force against Indigenous people protesting violations of their rights.
56. **Administration of justice, including impunity and the rule of law:** UNDRIP (Article 40) emphasizes on the right to judicial access, and fair trial. In Bastar, however, instead of providing redress to victims of crimes, the criminal justice system has been used as a tool to oppress and curb dissent. Militarization and the resulting incarceration of thousands of Adivasis has led to Chhattisgarh prisons becoming some of the most overcrowded prisons in India.<sup>81</sup> The prevailing volatile narrative in the region defames every villager either as an insurgent or an insurgent sympathizer. Therefore, police and security forces routinely arrest villagers arbitrarily and fabricate cases.<sup>82</sup> As villagers are defamed as terrorists, bail and other means of relief are routinely denied and people spend years in pre-trial jail.<sup>83,84</sup> Within Chhattisgarh, the Adivasi-dominated districts of South Bastar have the highest rates of incarceration.<sup>85</sup>
57. Bastar has seen extremely violent episodes in its more than three-decade long conflict. The state has committed brutal atrocities on the Adivasi peoples in the region and has managed to cultivate a culture of impunity.<sup>86</sup> As a result of a non-responsive judiciary and the absence of media coverage, not a single state official has ever been held accountable, despite documented cases and official reports proving the atrocities (as highlighted in the section above).
58. **Recommendations:** Government of India should
- i. conduct thorough investigations of all alleged extrajudicial killings and instances of sexualized violence by security forces, and ensure that perpetrators found guilty of conducting, enabling, condoning, or ordering violent acts are not only removed from active service but are appropriately prosecuted.
  - ii. uphold the rule of law by means of registration, investigation and prosecution of all alleged human rights violations committed against indigenous communities by the security forces.
  - iii. take appropriate action against perpetrators involved in committing atrocities during the Salwa Judum period as directed by the Supreme Court.
  - iv. ensure the termination of arbitrary and false arrests of Adivasis as insurgents and release those languishing in prisons for this reason.
  - v. ensure that Adivasis have access to justice mechanisms without fear of repercussions.
59. **Fundamental freedoms and participation in public and political life:** With increased militarization and corporate penetration of the state, attacks against human rights defenders have intensified, particularly on those working on issues of displacement, sexualized violence, and militarization in the Adivasi areas.
60. Adivasi leaders and civil society members, trade union activists, lawyers, journalists, and researchers, have been targeted by state and vigilante violence. Commonly, dissent is branded as anti-national or anti-development and promptly criminalized. Criminal cases are levied against them, with accusations ranging from obstruction of public authority to allegedly being member of insurgent organizations. Under draconian legislations like the Unlawful Activities

(Prevention) Act (UAPA) and Chhattisgarh Special Public Security Act (CSPSA)<sup>87</sup>, the state has been further criminalizing individuals and associations as terrorists. These laws gravely violate due process guarantees by providing for long periods of incarceration without evidence or bail, and with long pretrial detention.<sup>88</sup>

61. On 9<sup>th</sup> March 2021 Hidme Markam, a 28-year-old Adivasi woman who actively participated in the protesting against the setting-up of security camps in the villages and the acquisition of forest land for an upcoming iron-ore mine on traditional Adivasi land, was arrested under an anti-terror law.<sup>89</sup>
62. In August 2018, long-time trade unionist and forest / land / human rights lawyer and General Secretary of the Chhattisgarh Peoples' Union of Civil Liberties, Sudha Bharadwaj was arrested under the UAPA.
63. Human rights defenders supporting Adivasi communities and their struggles in Chhattisgarh have been victims of spyware attacks. In the last two years alone, activists from Chhattisgarh working on Indigenous and land rights have been targeted through Spyware Software like Pegasus and NetWire.<sup>90</sup>
64. **Recommendations:** Government of India should
  - i. drop all politically motivated charges against human rights defenders supporting Adivasi communities who have been targeted for simply trying to defend their lands and their rights, and release those arrested immediately.
  - ii. stop painting all dissent as terrorism and criminalizing human rights defenders, associations, or assemblies of Indigenous people.
  - iii. repeal laws like UAPA and CSPSA that violate fundamental rights of the accused.

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- <sup>11</sup> Elaborated under point 28 (Right to Free, Prior, and Informed Consent (FPIC))
- <sup>12</sup> Uganda (161.90), Palestine (161.91), Brunei Darussalam (161.94), Singapore (161.170)
- <sup>13</sup> Elaborated under point 34 (Right to safe environment and health)
- <sup>14</sup> Greece (161.95)
- <sup>15</sup> Peru (161.96)
- <sup>16</sup> Elaborated under point 47 (Right to life, liberty, and security of the person)
- <sup>17</sup> Brazil (161.204), China (161.199), Japan (161.200), Kyrgyzstan (161.201), Greece (161.198)
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- <sup>22</sup> The Provisions of the The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006 [Forests Rights Act – FRA] <https://tribal.nic.in/FRA/data/FRARulesBook.pdf>. 1) Recognizes a bundle of rights as the pre-existing forest rights of STs and Other Traditional Forest Dwellers (OTFDs) to community forests (CFR), household lands (IFR), forest produce etc., individually and collectively. 2) Also recognizes “habitat rights” of Particularly Vulnerable Tribal Groups (PVTGs) 3) Recognizes the authority of the Gram

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Sabha (village assembly comprising all adult members with the full and unrestricted participation of women) to manage, protect and conserve forests a. In 2013, the Supreme Court of India held that the overall authority of the Gram Sabha to manage and protect forests mandates their free, prior and informed consent for any proposed project or activity affecting their rights: *Orissa Mining Corporation v. Ministry of Environment and Forests*

4) Lays down a procedure for the recognition and verification of forest rights, with the Gram Sabha as the primary authority 5) Protects against dispossession until rights settlement processes are complete.

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<https://legislative.gov.in/sites/default/files/A1996-40.pdf>. PESA states that every Gram Sabha shall approve the plans, programmes and projects for social and economic development before they are implemented at the village level. PESA also states that the Gram Sabha is particularly endowed with the power to prevent alienation of land in the Scheduled Areas, and to take appropriate action to restore any unlawfully alienated land of a ST.

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