

**SUBMISSIONS TO THE UN SPECIAL RAPPORTEUR ON THE RIGHT  
TO ADEQUATE HOUSING**

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**Gross Violations of the Right to Adequate Housing in Chhattisgarh, India**

**Towards**

**THEMATIC REPORT ON  
RIGHT TO ADEQUATE HOUSING FOR INDIGENOUS PEOPLES**

**By**

**HUMAN RIGHTS DEFENDERS ALERT**

**JUNE 21, 2019**

**CALLING URGENT ATTENTION!**

- 1) Supreme Court has ordered forced evictions of more than one million indigenous peoples from their lands, on the basis that their forest rights claims have been rejected. The order is temporarily on hold pending further information on due process from state governments.
- 2) Imminent forced displacement of peoples from Hasdeo Arand forests for proposed 30 coal mines impacting 170,000 hectares of contiguous dense forests.
- 3) Fear and intimidation in the exercise of right to housing with the fresh deployment of security forces and paramilitary camps in Bastar and Raoghat.

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## INTRODUCTION

Located in Central India, the state of Chhattisgarh comprises 31% indigenous peoples (*adivasis*), accounting for 10% of the overall indigenous population of India. The state of Chhattisgarh is of relatively recent origin, having come into existence on the 1<sup>st</sup> of November 2000. Cobbled together from the tribal districts of Eastern Madhya Pradesh, Chhattisgarh was ostensibly created to give greater voice to the indigenous adivasi tribes living there. With only 2.1% of the country's total population, Chhattisgarh is a fairly small state, but nearly a third of its population is comprised of adivasis.<sup>1</sup>



The state was carved out of the neighboring state of Madhya Pradesh to enable more effective self-governance for *adivasis* in areas with a high concentration of population, as they have lived in, and protected, the dense natural forests in the region for centuries, which are also heavy reserves of mineral resources.

### **Political Status of Indigenous Peoples in Chhattisgarh**

Although India does not recognize indigenous peoples per se, it grants constitutional recognition to certain “Scheduled Tribes” (STs), based on a combination of historical, cultural and socio-economic factors. The power to recognize STs vests in the President of India. There are 42 STs in Chhattisgarh, including Gonds, Madias, Bhils etc.

The Constitution of India, under its Fifth Schedule, contains special provisions for the administration and control of “Scheduled Areas”, or those areas with a high concentration of ST population, with the objective of protecting tribal autonomy and culture. The Fifth Schedule recognizes the rights of self-governance over land and resources through customary laws and institutions. The power to recognize Scheduled Areas vests with the President of India. In Chhattisgarh, 7 districts have been fully recognized as Scheduled Areas, and 6 districts are partially recognized. Large parts of the state are still excluded from these special protections

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<sup>1</sup> Census of India, 2011

## Lowest Human Development Index

Despite its immense natural wealth, Chhattisgarh is mired in poverty. Although the state has seen steady overall economic growth since its inception, the Rangarajan Committee of the Planning Commission estimated that in 2010-2011, Chhattisgarh had nearly half of its population below the poverty line, making it the state with the largest fraction of its population in abject poverty. With high Infant Mortality Rates, Maternal Mortality Ratios and malnourishment levels among children, Chhattisgarh fares poorly on all the health indices. Some of the key socio-economic indicators are given in the table below: -

**Table 1: Selected Socio-Economic Indicators in Chhattisgarh**

Indicator	Value	Rank of Chhattisgarh	Source
<b>Fraction of population living below the poverty line in 2011-2012</b>	47.9%	1 <sup>st</sup> (Highest) among all 35 states and UTs in India	<i>Expert Group (Rangarajan) Report, 2014</i> <sup>2</sup>
<b>Crude Death Rate in 2012</b>	7.9	2 <sup>nd</sup> Highest among all 35 states and UTs in India	<i>Sample Registration Survey, 2013</i> <sup>3</sup>
<b>Infant Mortality Rate in 2012 (per 1000 live births)</b>	47	7 <sup>th</sup> highest among all 35 States and UTs of India	<i>Sample Registration Survey (SRS), Sep 2013</i> <sup>4</sup>
<b>Maternal Mortality Ratio for 2007-2009 (per lakh live births)</b>	269	5 <sup>th</sup> Highest among the 18 major states and UTs in India	<i>Special Bulletin on MMR, June 2011- Registrar General of India</i> <sup>5</sup>
<b>Percentage of children under age 3 classified as underweight (2005-2006)</b>	47.8%	4 <sup>th</sup> Highest among 29 states in India	<i>National Family Health Survey -3 (2005-2006)</i> <sup>6</sup>
<b>Hunger Index ( A measure of hunger and malnutrition in the population) in 2008</b>	26.63 “Alarming” category	4 <sup>th</sup> Highest (Hungriest) among 17 major states in India	<i>India State Hunger Index- 2008</i> <sup>7</sup>

<sup>2</sup> Report of the Expert Group to Review the Methodology for Measurement of Poverty, 2014, Government of India, Planning Commission, June, 2014, p 66

<sup>3</sup> Available from the Planning Commission at [http://planningcommission.nic.in/data/datatable/data\\_2312/DatabookDec2014%20185.pdf](http://planningcommission.nic.in/data/datatable/data_2312/DatabookDec2014%20185.pdf)

<sup>4</sup> Available from the Planning Commission at [http://planningcommission.nic.in/data/datatable/data\\_2312/DatabookDec2014%20204.pdf](http://planningcommission.nic.in/data/datatable/data_2312/DatabookDec2014%20204.pdf)

<sup>5</sup> Available from the Planning Commission at [http://planningcommission.nic.in/data/datatable/data\\_2312/DatabookDec2014%20207.pdf](http://planningcommission.nic.in/data/datatable/data_2312/DatabookDec2014%20207.pdf)

<sup>6</sup> Available from the Planning Commission at [http://planningcommission.nic.in/data/datatable/data\\_2312/DatabookDec2014%20216.pdf](http://planningcommission.nic.in/data/datatable/data_2312/DatabookDec2014%20216.pdf)

<sup>7</sup> Comparisons of Hunger Across States, Purnima Menon, Anil Deolalikar, Anjor Bhaskar, <http://www.ifpri.org/sites/default/files/publications/ishi08.pdf>

Many of the socio-economic and health indicators are captured in the Human Development Index (HDI), which is a composite measure of life expectancy, access to education and the standard of living. In 2007-2008, the latest year for which statewise HDI numbers are available, Chhattisgarh stood at the bottom of the list, with an HDI of 0.358<sup>8</sup>.

These socio-economic indicators frame the context for the rest of the submissions, acting as a reminder that the *adivasis* of Chhattisgarh are one of the most historically marginalized populations in India, who have been alienated from various welfare and beneficial mechanisms of the State. Instead, the operation of laws, political institutions and security apparatus in the state of Chhattisgarh has been instrumental in their dispossession from their homes, lands and forests. With these submissions, we intend to bring to the attention of the Special Rapporteur the situation of gross human rights violations of the right to housing in Chhattisgarh, and to present detailed accounts on:

- i. Existing domestic laws relating to self-governance and tenure, and State power of eminent domain
- ii. Dispossession and displacement due to development projects
- iii. Conflict induced displacement
- iv. Violations of the right to environment, deplorable living conditions, and loss of livelihoods.

The submissions conclude with a request for urgent attention to the imminent evictions of people of Chhattisgarh, and recommendations for a holistic reading of the right to adequate housing as encompassing the right to self-governance, physical and tenurial security over land, and in a manner that its indivisibility and mutual reinforcement with civil and political rights is underscored. This includes demilitarization of indigenous lands for the peaceful enjoyment of the right to housing, and accountability for human rights violations due to conflict.

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<sup>8</sup> 'India Human Development Report 2011 – Towards Social Inclusion,' Institute of Applied Manpower Research, Planning Commission, Government of India, p24

## EXISTING DOMESTIC LAWS RELATING TO SELF-GOVERNANCE AND TENURE RIGHTS OVER INDIGENOUS LAND AND FORESTS

The right of indigenous peoples to adequate housing needs an expansive interpretation, recognizing their special historical and cultural relationship to their land, and distinct modes of use and management encompassing both household lands and commons. As recognized by report of UN Habitat, this right is inextricably linked to issues of access and control over resources,<sup>9</sup> and must be read in light of the fundamental guarantee to self-determination and autonomy over indigenous territories and land.

The Fifth Schedule of the Indian Constitution read with the Chhattisgarh Panchayati Raj Adhiniyam, 1993 (“CPRA”) recognize rights of self-governance over land, forests and resources within Scheduled Areas, while the Forest Rights Act (“FRA”) more generally recognizes the right to tenure across all forest land in the country (including rights to customary forest resources, household habitation and cultivation plots, and essential livelihood sources such as community commons, forest produce etc.). **Annexure A** contains details of relevant guarantees under these legal instruments. This section enumerates challenges to the full exercise of guarantees of right to housing, understood expansively, under domestic law:

### **i. Violation of autonomy and self-governance in Scheduled Areas:**

Autonomy in Scheduled Areas is subverted through the non-exercise of the powers of the Governor under the Fifth Schedule. Since Independence, the Governor of Chhattisgarh has modified or limited the application of central/ state laws in Chhattisgarh only exceptionally, and even the High Court of the state has held that the Governor exercises this power not independently, but is bound by the advice of the council of ministers of the government.<sup>10</sup> Gram Sabhas (village assemblies) and local bodies of self-governance organized under the CPRA are ineffective in protecting tribal autonomy over land due to excessive State interference in their constitution and functioning, as well as their systematic exclusion from decision-making relating to land and resources.

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<sup>9</sup> UN Habitat, INDIGENOUS PEOPLES RIGHT TO HOUSING: A GLOBAL OVERVIEW, United Nations Housing Rights Program Report No.7 (Nairobi, 2005).

<sup>10</sup> *BK Manish v. State of Chhattisgarh*, WP (PIL) 23 of 2012, High Court of Chhattisgarh at Bilaspur.

## ii. Non-recognition and illegal rejections of forest rights:

FRA has the potential to secure rights of more than 7.4 million STs and Other Traditional Forest-Dwellers (OTFDs) in Chhattisgarh (32% of state population) over at least 3.02 million ha in over 11,500 villages.<sup>11</sup> However, no CFR rights- that is, collective rights over traditional homelands and authority of Gram Sabha to govern and manage forests- have been formally recognized in the state. CFR claims of 80-100 villages in Bilaspur, Balrampur, Dhamtari, Rajnandgaon, Kabirdham and Kanker districts have remained pending for several years, while those recognized in Hasdeo Arand forests of Surguja district were later illegally cancelled due to a proposed mining project on the same land.<sup>12</sup>

While only 5% of the total population eligible for forest rights have claimed individual forest rights (IFR)- that is, household rights over plots of habitation and cultivation recognized jointly in the names of both spouses, or single heads of households including women- only 44% of these claims have been recognized, mostly over less areas than that which was claimed, and often carrying illegal restrictions on the exercise of forest rights. 56% claims have been rejected without following due process, especially in areas with proposed mining and other development projects (e.g. Korba, Surajpur, Balrampur, Sarguja, Bilaspur, Raigarh).<sup>13</sup>

### **BOX 1: Supreme Court of India orders Forced Evictions of Indigenous Peoples whose Forest Rights Claims have been ‘Rejected’**

On 13 February 2019, the Supreme Court of India ordered evictions of those whose FRA claims have been rejected, in a case where retired forest officials, former landlords and few wildlife NGOs challenge the constitutionality of the Forest Rights Act (FRA) (*Wildlife Trust of India and ors. v. Union of India and ors.*, WP(C) 50 of 2008). The petitioners argue that recognition of rights of forest-dwellers leads to the destruction of forests, even though it is widely recognized internationally that recognition of rights of indigenous peoples is a crucial

<sup>11</sup> Community Forest Rights Learning and Advocacy (CFR-LA), CITIZEN'S REPORT ON PROMISE AND PERFORMANCE OF THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006 (2016) available at

<http://fra.org.in/document/Promise%20and%20Performance%20Report.pdf>

<sup>12</sup> Human Rights Law Network and CFRLA, FOREST RIGHTS ACT: THE HISTORICAL INJUSTICE CONTINUES, Report of the Independent Peoples Tribunal on Status of Implementation of Forest Rights Act (2017), available at <https://www.fra.org.in/document/IPT%20FRA%20final%20report.pdf>.

<sup>13</sup> Ministry of Tribal Affairs, Monthly Update on Status of Implementation of FRA, August 2018, available at <https://tribal.gov.in/FRA/data/MPRAug2018.pdf>.

determinant of improved conservation outcomes (Convention on Biological Diversity; UNDRIP). Although the petition has been pending for over a decade, the Supreme Court passed these interim orders for eviction without first addressing the issue of constitutionality, and without providing a fair hearing to the few *adivasi* organizations intervening in the matter. The Chhattisgarh government had previously acknowledged that a large number of FRA claims have been wrongfully rejected, and had initiated processes for their review, which are still ongoing. However, in an affidavit filed in the same matter, the Chhattisgarh government also acknowledged that it had already undertaken forced evictions of more than 20,000 claimants. The Supreme Court has temporarily put this order ‘on hold’ on 28 February, pending further information from state governments relating to due process followed in rejection of claims. However, the threat of evictions remains alive, affecting more than one million forest-dwellers in India, including large numbers in Chhattisgarh.

**iii. State power of eminent domain and large-scale diversion of land for development projects:**

Constitutional and statutory self-governance and tenure rights are undermined by a regime of colonial and postcolonial laws vesting overall ownership and control of forests in the State, and encoding the power of eminent domain over land and resources. These include the Indian Forest Act 1927, Forest Conservation Act 1980, Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (Land Acquisition Act or LARR), as well as laws relating to acquisition of natural and mineral resources such as coal. These laws include the power of the State to appropriate indigenous land and forests through its executive functions, extinguish existing rights of communities, categorize them as ‘encroachers’ on their own lands, and transfer authority for management to from customary institutions the Forest Department.

While these laws have limited avenues for prior consultation and/ or free, prior and informed consent for proposed activities, due process is rarely followed in their implementation, while in some cases, such consultations/ consent processes may actually be undertaken under duress.



#### **iv. Systematic withdrawal of existing rights and guarantees**

Since 2014, the BJP government at the Centre has introduced successive laws and policies that reverse existing constitutional and statutory guarantees of self-governance and tenure rights of indigenous peoples. These include exemptions from seeking free, prior and informed consent of project-affected persons in case of diversion of forest land for ‘linear’ projects and mineral prospecting, expanding eminent domain and police powers of the State and administrative machinery to centralize control over land, increased mechanisms for land grab through land banks, forced plantations under CAF Act, land swaps, as well as forced evictions through illegal declarations of protected areas without due process and FPIC.

#### **Recommendations**

- 1) Right to adequate housing for indigenous peoples mandates a recognition of their right to lands, territories and resources, through guarantees of self-governance and tenure security.
- 2) This must be read in light of the fundamental guarantee of self-determination. States must respect the right of indigenous peoples to determine their own political status and exercise autonomous governance compliant with internal constitutional arrangements and international human rights law.
- 3) States carry a negative obligation to refrain from intervening in the governance and use of indigenous land and resources, along with positive obligations to recognize and respect customary laws and institutions, enable free exercise of tenure rights over collective and household lands, and respect for development of resources as per customary practices of use and conservation.
- 4) States must ensure guarantees against all further evictions and forced relocations.
- 5) States must ensure accountability of state and non-state actors in case of evictions, dispossession and illegal restrictions on the exercise of rights for livelihood, cultural and other purposes.

## LARGE-SCALE DISPLACEMENT DUE TO DEVELOPMENT PROJECTS

Chhattisgarh has abundant mineral wealth, with 17.4% of total coal reserves in India, 18.7% of iron ore (hematite) reserves, 37.7% of tin ore reserves and 28.3% of diamond reserves of India<sup>14</sup>. At 16599.59 crores, the value of minerals produced in Chhattisgarh in the year 2012-13 accounted for almost 13% of India's total mineral production value for the year<sup>15</sup>. Mining and quarrying activities have steadily contributed to roughly 10% of the state's GDP over the past 10 years<sup>16</sup>, and over 50% of its non-tax revenue stream<sup>17</sup>.

At present Chhattisgarh is going through a massive illegal loot of forest and mineral resources. The state ranks second in the nation in terms of total forest land diverted for mining purposes – accounting for 15%. The brunt of this diversion is being faced by the Adivasi communities in the area. Whether it be the sponge-iron belt of Raipur, the cement belt between Raipur and Bilaspur, the coal mines of Koriya, bauxite mines of Sarguja, the power plants of Korba, and above all Raigarh, where private corporations enjoy significant de facto police and administrative powers, all these areas have been witness to widespread displacement, inadequate rehabilitation and compensation, and devastation of the environment particularly the clearing of pristine forests, toxic air pollution, turning up waters red with sludge and drying up of water sources and dumping of ash.<sup>18</sup>

Some of the areas of concern with respect to displacement of indigenous population of Chhattisgarh are as follows:

1. **Violation of established procedures for settlement of individual and community claims.** For instance, for the mining project in Hasdeo Arang forest region, in a complaint

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<sup>14</sup> 'District wise Mineral Resources,' Mineral Resources Department, Government of Chhattisgarh, available at <http://chhattisgarhmines.gov.in/PDF/District%20wise%20Mineral%20Resources.pdf>

<sup>15</sup> 'Mineral Revenue,' Mineral Resources Department, Government of Chhattisgarh, available at <http://chhattisgarhmines.gov.in/PDF/Mineral%20Revenue.pdf>

<sup>16</sup> Chhattisgarh Economic Survey 2013-14, Directorate of Economics and Statistics, Chhattisgarh, Raipur.

<sup>17</sup> Representative figures for the year 2011-2012 taken from 'Statistical Abstract of Chhattisgarh, 2011-12,' Directorate of Economics and Statistics, Raipur, Chhattisgarh p. 96

<sup>18</sup> <https://counterview.org/2018/02/15/how-corporate-land-grab-is-sought-to-be-legitimized-in-chhattisgarh-by-misusing-legal-framework/>

sent to an experts appraisal committee it was alleged that the gram sabhas were forged.<sup>19</sup>

2. **Lack of consent or employment of forceful means to obtain the same.** For instance, in one of the informal complaints regarding the illegal swapping of land<sup>20</sup>, it was alleged that the sub divisional officer threatened the families to give consent for such illegal transfers.<sup>21</sup>
3. **Inadequate or no compensation.** The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 provides for enhanced rates of compensation to be given to those whose lands have been acquired for developmental projects. However, there has been an ongoing attempt at diluting the same.<sup>22</sup>
4. **Attacks on human rights defenders** who oppose the violations of laws committed by the State and corporate entities. Sudha Bharadwaj, a lawyer and activist in the state of Chhattisgarh, who has vociferously criticized the state's collusion in corporate land grab and violence on adivasis, was arrested on 28 August 2018 and charged under the country's anti-terror legislation known as the Unlawful Activities Prevention Act- an extraordinary legislation that overrides the provisions under the country's criminal procedural laws and the Constitution. There have been similar attacks in the past as well on local community leaders. Jailal Rathia, an Adivasi community leader in Chhattisgarh, challenged the irregular acquisition and grabbing of Adivasi land. He died in March 2017 as a result of what his family suspect was a deliberate poisoning. He had been threatened on several occasions and told by local land mafia and the state police to withdraw the petitions he had filed.<sup>23</sup> These are only a few instances of State action against defenders of the right to land of indigenous peoples and those who challenge forced displacement and evictions.

The following three case studies best exemplify the ongoing illegalities and human rights violations of the right to housing on account of major development projects:

1. Rowghat Iron Ore Mining Project and Dalli Rajhara- Rowghat Railway Project

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<sup>19</sup> <https://www.hindustantimes.com/india-news/centre-s-nod-for-mining-in-170khectares-of-forest/story-F60Pb7W8ybegHntaQ9YBwK.html>

<sup>20</sup> <https://thewire.in/rights/adla-badli-scheme-puts-chhattisgarh-adivasis-at-risk-of-losing-land-and-livelihood>

<sup>21</sup> <https://theleaflet.in/the-mask-of-adla-badli-how-chhattisgarh-government-steals-adivasi-land-on-behalf-of-bhilai-steel-plant/>

<sup>22</sup> <https://economictimes.indiatimes.com/news/politics-and-nation/how-central-and-state-governments-have-diluted-the-historic-land-legislation-of-2013/articleshow/63764378.cms>

<sup>23</sup> <https://amnesty.org.in/news-update/human-rights-defenders-serious-risk-india-across-globe/>

2. Parsa East and Kanta Basan (PEKB) Open Cast Coal Mine Project in Hasdeo Arand Forest Region
3. Northern Coalfields Limited (NCL) Mining Project in Bastar

### **CASE STUDY 1: Rowghat Iron Ore Mining Project and Dalli Rajhara- Rowghat Railway Project**

- The Raoghat region of Kanker in South Chhattisgarh has immense reserves of iron ore and plans are underway not only to set up a 14 MTPA iron ore mines but also a railway line. The 14 MTPA **Rowghat Iron Ore Mine of the Bhilai Steel Plant** (BSP - wholly owned subsidiary of Steel Authority of India Limited, a public sector undertaking) is being executed over an expanse of 2,028.797 ha of reserved forest land in the Matla Reserved Forest of the Antagarh Block of Kanker, and Narayanpur Districts of Bastar Region of Chhattisgarh.
- Vast majority of people residing in these villages are STs, mostly Madia Gonds and Abuj Madia, who are entirely dependent on the surrounding forests for their sustenance and cultural identity, and who have an interdependent relationship with the forest. Various spots on the Rowghat Hills are considered holy by members of the Gond tribe, who live across the states of Chhattisgarh, and adjoining states. The adivasi population is also heavily dependent on the land for cultivation.
- The Mine falls in the Rowghat Hills in the midst of an extensive wildlife corridor stretching from South Eastern Maharashtra to North Western Orissa. The mining lease (ML) area is surrounded by tiger reserves. It further acts as a migratory route for tigers to the Eastern Ghats, and is one of the last remaining ranges of the highly endangered Asian Wild Buffalo (*Bubalus arnee*).<sup>24</sup>
- **Displacement:** The Rapid Environmental Impact Assessment (EIA) report prepared by NEERI (National Environmental Engineering Research Institute)<sup>25</sup> in 2006 lists at least 35 villages within a 15 km radius of the proposed mining site. Ever since the Bhilai Steel Plant was allocated these mines, the villages in the surrounding areas have seen a steady increase

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<sup>24</sup> [http://sanhati.com/wp-content/uploads/2014/02/Objection\\_Rowghat\\_Iron\\_Ore\\_Mines\\_CBA\\_2014.pdf](http://sanhati.com/wp-content/uploads/2014/02/Objection_Rowghat_Iron_Ore_Mines_CBA_2014.pdf)

<sup>25</sup> National Environmental Engineering Research Institute, *Rapid Environmental Impact Assessment for Minding and Infrastructural Facilities at Raoghat, District Bastar, Chhattisgarh, 2006*

in security forces.<sup>26</sup> This makes the villagers more susceptible to violence by the security forces. The Site proposed for the mining waste dumps, the report warned, would destroy the drainage of the entire valley. According to the EIA/EMP the Anjrel Village, would have to be “displaced entirely for establishment of Explosive Magazine” and the Rowghat Railway Station would be built “at the present location of Phulpar Village”. There is no formal plan for rehabilitation of displaced people, and no information with the gram sabhas about the project proposal.

- Clearances for the acquisition has been granted illegally and completely overlooking the 8 Gram Sabhas that have submitted detailed forest rights claims stating that they will protect their forest rights and will not let their natural and cultural heritage be destroyed or misappropriated.
- As per official Kanker District data, no community forest claims have been settled in the Bhanupratappur Division of Kanker. Likewise, Government of Chhattisgarh data shows the number of “pending, partially accepted, rejected, referred back and approved” community claims as 0 in all categories.
- It has been reported that the 500 families who have lost their lands for Rowghat railway line in 2008-09 are “reeling under acute poverty” and have yet to receive proper compensation or jobs. Residents of Kalgaon village in Antagarh Tehsil of Kanker in Chhattisgarh are currently threatened by eviction from lands that they have cultivated for many generations and depend on for their sustenance. The pending forest right claims of indigenous forest dwellers have been suppressed, the many complaints and representations made by the affected families ignored.
- There has been continuous protests against these projects but the state has responded with threats, torture and arrests. Badri Gawde, one of the leaders of a local villagers led movement, Raoghat Sangharsh Samiti, was arrested in 2014. He was accused of working as a conduit for the maoist. He has since been released on bail. Alongwith him, Raoghat has seen several such arrests since 2014.

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<sup>26</sup><https://scroll.in/article/777171/in-the-shadow-of-an-upcoming-iron-ore-mine-in-chhattisgarh-people-live-in-fear-of-the-gun>

## **CASE STUDY 2: Parsa East and Kanta Basan (PEKB) Open Cast Coal Mine Project in Hasdeo Arand Forest Region**

- The Ministry of Environment, Forest and Climate Change (MoEFCC) granted clearance to the PEBK Open Cast Coal Mine Project and Pit Head Coal Washery in Sarguja, Chhattisgarh, on December 21, 2011.<sup>27</sup>
- The region was once a ‘no-go’ area for mining, aiming to protect and conserve high density forest cover, biodiversity and wildlife. For the Project and Washery, 2711.034 ha of land have been allotted to Rajasthan Rajya Vidyut Utpadan Nigam Limited (RVUNL) for a period of 30 years and the Mine Developer and Operator (MDO) contract is with Adani Mining Private Limited. A 135 MW reject coal based thermal power plant linked to this project has also been proposed within the mine lease.<sup>28</sup>
- The Parsa mine is one of 30 mapped mines in Chhattisgarh’s Hasdeo Arand region, one of the largest intact forest areas in central India, spanning about 170,000 hectares. The Hasdeo Arand coalfield is spread over north Korba, south Sarguja and Surajpur districts. It is one of the largest intact forest areas in central India outside of the protected area system. The coalfield covers a total area of 1,878 sq km, of which 1,502 sq km has forest.<sup>29</sup>
- **Displacement:** Besides, destruction of natural ecosystem and natural wildlife habitat, mining is likely to lead to large scale displacement of villages mostly Adivasis and other traditional forest dwellers that depend entirely on the forests not just for their livelihood but all aspects of their life. In fact, most of the residents have not seen life outside of forests and are unlikely to be able to survive if displaced. The implementation of Forest Rights Act also remains poor with several process issues and challenges, despite significant efforts of the civil society organizations, owing to the unsympathetic attitude of the Government and administration. Therefore, any displacement due to mining operations will have horrendous impact on community in form of loss of livelihood, identity and culture.<sup>30</sup>
- The PEBK mine operations and the government’s plans to open up more coal mines in the

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<sup>27</sup><http://www.indiaenvironmentportal.org.in/files/file/Closing%20the%20Enforcement%20Gap-%20Groundtruthing%20of%20Environmental%20Violations%20in%20Sarguja,%20Chhattisgarh.pdf>.

<sup>28</sup><http://www.indiaenvironmentportal.org.in/files/file/Closing%20the%20Enforcement%20Gap-%20Groundtruthing%20of%20Environmental%20Violations%20in%20Sarguja,%20Chhattisgarh.pdf>.

<sup>29</sup><https://www.landconflictwatch.org/sites/default/files/Implications-of-Mining-in-Hasdeo-Arand-coloured.pdf>

<sup>30</sup><https://www.landconflictwatch.org/sites/default/files/Implications-of-Mining-in-Hasdeo-Arand-coloured.pdf>

Hasdeo forests have sparked grassroots protests in Chhattisgarh over the past five years. One organisation leading the protests is the Hasdeo Arand Bachhao Sangharsh Samiti, or HABSS, a group spanning 40 villages across the Hasdeo region, which have been, or will be, adversely impacted by coal mining. On 24 February, 2019 150 gram sabhas came together in Hasdeo's Morga village to protest the FAC clearance, according to a press release from the HABSS.<sup>31</sup>

- In May 2017, the company and authorities filed cases against few villagers, for which they had to take bail. One of the samiti's members, Bal Sai Korram from Hariharpur village has another case against him, and was in jail for a month. The allegations against them are obstruction of public work, stating the property to belong to the government.<sup>32</sup>

### **CASE STUDY 3: Northern Coalfields Limited (NCL) Mining Project in Bastar**

- NMDC formed a joint venture with Chhattisgarh Mineral Development Corporation (CMDC) in 2008. The new entity NCL (NMDC CMDC Limited) got the environment clearance in 2015 to mine 10 million tonnes of iron ore from the mine spread over the lease area of 413.74 hectares. Deposit-13 has a huge reserve of 326 million tonnes of high-grade steel-making raw material.<sup>33</sup>
- Adani Enterprises Limited (AEL) had been given the contract as mine developer in Bailadila last year by NCL, a joint venture of National Mineral Development Corporation and Chhattisgarh Mineral Development Corporation.<sup>34</sup>
- The NMDC trade union has been opposing the deal, saying the company was privatising the operation. Soon, local tribals joined the protest on 7 June, 2019, saying they would not allow mining as the Deposit-13 houses their deity, Pithod Rani and Nandaraj.
- Nearly 10,000 tribals reached Kirandul-Bailadila and sat on an indefinite dharna on Friday. On 13 June, however, operations resumed at five iron ore mines at the Bailadila Range of Dantewada district, after remaining suspended for six days as adivasis picketed entry

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<sup>31</sup> <https://caravanmagazine.in/communities/coal-mining-hasdeo-forests-protests>

<sup>32</sup> <https://caravanmagazine.in/communities/coal-mining-hasdeo-forests-protests>

<sup>33</sup> <https://thewire.in/rights/nmdc-mine-in-chhattisgarhs-bastar-could-be-the-next-niyamgiri-movement>

<sup>34</sup> <https://www.hindustantimes.com/india-news/chhattisgarh-stops-mining-in-bailadila-hills-after-protests-by-tribals/story-6gHvHeanzvKWtN3gXRtCKM.html>



gates.<sup>35</sup>

- Adivasis of Hiroli, one of the affected villages, allege false Gram Sabhas were held for their consent to mining at the hill, that had led to illicit felling of trees by the Forest Department.<sup>36</sup> Alarming, the Forest Clearance application filed by the State government declares that the area being used for mining is not Scheduled area (and thereby not protected under Article 244(1) of the Indian Constitution) and that claims under the Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006 have been settled in the region, with no individual or community filing claims - both of which are evidently untrue claims betraying the malafide intentions of the administration vis-a-vis the affected indigenous population.

### **Recommendations**

- 1) Right to adequate housing for indigenous peoples necessitates limitations on the power of eminent domain and state appropriation of land and resources. Use of indigenous land must prioritise housing, livelihood and developmental needs of indigenous peoples themselves.
- 2) As a corollary, indigenous lands may be appropriated only exceptionally, with compliance of relevant due process guarantees under domestic law and international human rights law.
- 3) Indigenous peoples have a right to free, prior and informed consent as per their self-determined political arrangements, with positive guarantees against evictions, forced relocations, and prior rehabilitation. Factors that vitiate free and informed consent include misinformation, deployment of security and police forces, persecution and intimidation of human rights defenders, among others.

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<sup>35</sup>[https://www-thehindu-com.cdn.ampproject.org/v/s/www.thehindu.com/news/national/nmdc-resumes-mining-at-bailadila-iron-ore-mines-after-six-days/article27901857.ece/amp/?amp\\_js\\_v=0.1#referrer=https%3A%2F%2Fwww.google.com&amp\\_tf=From%20%251%24s&ampshare=https%3A%2F%2Fwww.thehindu.com%2Fnews%2Fnational%2Fnmdc-resumes-mining-at-bailadila-iron-ore-mines-after-six-days%2Farticle27901857.ece](https://www-thehindu-com.cdn.ampproject.org/v/s/www.thehindu.com/news/national/nmdc-resumes-mining-at-bailadila-iron-ore-mines-after-six-days/article27901857.ece/amp/?amp_js_v=0.1#referrer=https%3A%2F%2Fwww.google.com&amp_tf=From%20%251%24s&ampshare=https%3A%2F%2Fwww.thehindu.com%2Fnews%2Fnational%2Fnmdc-resumes-mining-at-bailadila-iron-ore-mines-after-six-days%2Farticle27901857.ece)

<sup>36</sup>[https://www-thehindu-com.cdn.ampproject.org/v/s/www.thehindu.com/news/national/nmdc-resumes-mining-at-bailadila-iron-ore-mines-after-six-days/article27901857.ece/amp/?amp\\_js\\_v=0.1#referrer=https%3A%2F%2Fwww.google.com&amp\\_tf=From%20%251%24s&ampshare=https%3A%2F%2Fwww.thehindu.com%2Fnews%2Fnational%2Fnmdc-resumes-mining-at-bailadila-iron-ore-mines-after-six-days%2Farticle27901857.ece](https://www-thehindu-com.cdn.ampproject.org/v/s/www.thehindu.com/news/national/nmdc-resumes-mining-at-bailadila-iron-ore-mines-after-six-days/article27901857.ece/amp/?amp_js_v=0.1#referrer=https%3A%2F%2Fwww.google.com&amp_tf=From%20%251%24s&ampshare=https%3A%2F%2Fwww.thehindu.com%2Fnews%2Fnational%2Fnmdc-resumes-mining-at-bailadila-iron-ore-mines-after-six-days%2Farticle27901857.ece)



## CONFLICT-INDUCED DISPLACEMENT IN BASTAR

The hills and forests of South Chhattisgarh, more popularly referred to as Bastar, where a large part of Chhattisgarh's Adivasi population resides is an ecological treasure, the entirety of which has not been explored completely till date. Dense forests and difficult terrain ensured that the indigenous tribes inhabiting the region remained beyond external subjugation by the British and others for a long time. Now divided into seven districts, the erstwhile kingdom of Bastar is roughly the size of Belgium (33,000 sqkms) with a population of 2.7 million, of which two-thirds is of indigenous origin. It is noted that indigenous people constitute only 8.6% of the overall population of India. For ages, these people have a culture and mode of life distinct from the mainstream India and free from the administrative control of the Indian State.



More recently however, the modern Indian state has made many incursions into Bastar, first attracted by its mineral wealth, and then with a view of exercising territorial sovereignty over it. Consequently, the independence once enjoyed by the adivasis has reduced considerably, and the land they refer to as their home has become site of a deadly conflict.

### The Resource Curse

The plight of indigenous people in Bastar vis-à-vis displacement is basically a matter of policy failure and unaddressed alienation in the name of national interest. The adivasis of Bastar are mainly engaged in subsistence agriculture and are heavily dependent upon the forests for their everyday needs. But the arrival of mining and industrial projects, ostensibly to benefit the local populations of Bastar, have poisoned rivers, destroyed water sources, lay to waste prime agricultural land, and uprooted traditional villages.<sup>37</sup> They have seldom brought any tangible benefits to the *adivasi* populations.

<sup>37</sup> "Red water forces people in Chhattisgarh's naxal hotbed to migrate," PTI, DNA, 26 June 2015, <http://www.dnaindia.com/india/report-red-water-forces-people-in-chhattisgarh-s-naxal-hotbed-to-migrate-2099007>

Bastar's mineral wealth includes 10% of the country's iron ore reserves, apart from bauxite, platinum, corundum, dolomite, limestone, etc. Minerals contribute greatly to the state's revenues.<sup>38</sup> Much of this is headed into private hands.<sup>39</sup>

This invariably leads to the influx of foreign(non-*adivasi*) populations<sup>40</sup>, armed with the technical know-how and capital to benefit from the employment and business opportunities generated by the industrial plant and its ancillary industries. New commercial enterprises, shops, entertainment centres, schools and hospitals – all cater to the needs of this new class. Meanwhile, the local *adivasi*, having lost land, forests and means of livelihood to the industry, is too ill-equipped to capitalize on the changed economic scenario, and ends up digging ditches in a road construction crew, or as a domestic help somewhere in these new, dusty townships. This has also lead to a sharp decline in the Growth of population in areas like Bijapur and Dantewada.<sup>41</sup>

### **Origins of the Armed Conflict in Bastar**

This environment of disempowerment, relentless land grab and dispossession, and a vibrant history of rebellion against the subjugation have resulted in an indigenous people's insurgency in the area. As a result, Chhattisgarh, alongwith other adjoining states, has been the site of left wing armed insurgency, led by the Communist Party of India (Maoists) [CPI (M)], and commonly referred to as the Naxalites. It is to be noted that majority of the combatants in the Maoist party in Chhattisgarh are *adivasis*, who have picked up arms to fight for their claim on their land, forest and water.

Although the Indian state has recognized that the conflict in the area has socio-political roots, i.e, it arose as a result of lack of land reforms, tyranny of forest rangers and administration and a complete alienation of *adivasis* from the official structures of governance, yet its response to

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<sup>38</sup> Minerals contributed 19.23 and 64.4.1 per cent of the total revenue and non-tax revenue, respectively, of the sate in 2010-11. Performance Audit on 'Assessment, Levy and Collection of Major and Minor Mineral Reciepts' of the Government of Chhattisgarh, conducted by Comptroller and Auditor General, <http://www.indiaenvironmentportal.org.in/files/file/chhattisgarh%20performance%20audit%20on%20mining.pdf>

<sup>39</sup> Supriya Sharma, "Iron ore mines going for Rs 1 lakj in Chhattisgarh?" Times of India, 2 August 2010. In 2013, 18 mining leases were sanctions in Chhattisgarh of which 12 were located in Bastar alone; and of the 21 prospectig licenses given in the state, over 95% were to private companies. Letter dated 7 November 2013 rom the Chhattisgarh Bachao Andolan, a consortium of groups in the state struggling over the rights to natural resources, to the Ministry of Tribal Affairs protesting termination of the M.B.Shah Commission of Enquiry.

<sup>40</sup> <https://thewire.in/rights/komaram-bheem-koyas-two-centuries-land-alienation-resistance-tribals-telangana>

<sup>41</sup> Midhat Moini, 'Naxal-hit areas in Chhattisgarh see sharp decline in population' down to earth,17<sup>th</sup> August 2015

the insurgency has been largely militaristic and has flooded the region with battalions of police and paramilitary. Between 1991 and 2007, 3703.75 acres of land were acquired for defence in Bastar alone.<sup>42</sup>

### **Salwa Judum- “Purification Hunt”:**

In June 2005, a movement known as the ‘Salwa Judum’ was launched to combat the Naxalites in Dantewada district in the state of Chhattisgarh. Salwa Judum, is a Gondi (local indigenous language) word, which also means, peace hunt or Purification Hunt. It was a state sponsored strategy to counter the Naxalites in the district. It is to be noted that the first meeting of Salwa Judum happened in June 2005, days after the state signed MoU’s with TATA and Essar.

The purpose as outlined clearly in the district collector’s ‘Work proposal to make the Jan Jagran Abhiyan (initial name for Salwa Judum) successful,’ 2005, was to remove the support base the Naxalites had created in the villages and isolate them.<sup>43</sup> On the lines of the “strategic hamletting” used during Vietnam war,<sup>44</sup> between June 2005 and 2007, entire villages in (the undivided) Dantewada were forcibly taken to live in roadside settlements. To avoid, violence, many villagers came to camp on their own. The camps were officially described as “relief camps”, but the Judum leaders referred to them as Salwa Judum base camps, from where attacks could be launched. Villages that resisted joining the anti-maoist rallies were burnt.

Men, women and even children were killed, and many women were viciously gang raped. In just about 2 years of its initiation, Judum was credited with burning/ emptying out 644 villages out of 1354 villages in Dantewada, with hundreds of disappearances, extra judicial killings, and sexual violence (99 rapes) – all in the name of fighting Naxalism. 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 3,50,000.<sup>45,46</sup> In her book “The burning forest: India’s war on

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<sup>42</sup> Government of India, Report of the High Level Committee on Socio-Economic, Health and Educational Status of Tribal Communities of India(XAXA Committee Report)(New Delhi: Ministry of Tribal Affairs,2014),Table 8.12, p272.

<sup>43</sup> <sup>43</sup> <https://cpjc.files.wordpress.com/2007/11/collectors-work-proposal.pdf>

<sup>44</sup> Nandini Sundar, ‘Interning insurgent populations’, Economic and Political Weekly 46, No,6(2011),pp.47-57.

<sup>45</sup> PUDR, New Delhi, 17 May 2005: [When the state makes war on its own people](#): Violation of peoples rights during the SalwaJudum, Independent Citizens Initiative, 20 July 2006, [War in the heart of India](#) (pdf),Human Rights Forum, December 2006, Hyderabad, [Death, Displacement and Deprivation; The war in Dantewada: A Report](#),ACHR, 17 March 2006, New Delhi, [The Adivasis of Chhattisgarh: Victims of the Naxalite Movement and SalwaJudum Campaign](#), MFC & JSA, June 2007, [Where There Can Go No Doctor...: Report of a preliminary visit to assess the Public health situation in Dantewada, Chhattisgarh](#),NCPCR, January 2008. [Report of visit to Dantewada & Khammam to Investigate Status of Health and Education of Children affected by Civil Unrest](#),A report of Preliminary observations and findings of the IAPL team on the human rights situation in Chhattisgarh, India,Human Rights Watch, July 2008, [“Being Neutral is Our Biggest Crime”](#): Government, Vigilante, and Naxalite Abuses in India’s Chhattisgarh State.

Bastar<sup>47</sup>, Sociologist and activist Nandini Sundar<sup>48</sup> describes the period of Salwa judum:

*When the Judum attacked, they burnt not just the houses with everything inside, but also any stocks of stored grain they found in the forest. They even destroyed hand-pumps. Those who were not forced into camps fled into the forests, taking shelter with the Maoists; some 1,00,000 fled into neighbouring states, particularly Andhra Pradesh. They survived on the water used to boil rice or on grain recovered from their burnt houses. In normal times, the smell and taste of burnt grain is hard to stomach, but humans will eat anything to survive. In the camps, corruption in food supplies meant that people were always hungry. As in Malaya and Mizoram, the government also imposed restrictions on the transport of rice to markets in the interior.*

### **Internally Displaced Persons (IDPs)**

UN Guiding Principles on Internally Displaced Persons (IDPs), 1998, defines IDPs as: “internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.” Adivasis of Bastar are in every sense of the term ‘internally displaced persons’. The victims of this conflict are in every sense of the term “internally displaced persons”. These conflict induced displaced villagers are the poorest in the country and have been rendered destitute by conflict and are suffering severe malnutrition. Overall, at least a lakh are directly affected, including old people, women and children, and some 3 lakh or so live in the affected area. The IDP’s from Bastar can be divided into three categories:

1. Those hiding in the jungles around their villages, or living at home but periodically fleeing into the jungles, after their villages were attacked by the security forces and Salwa Judum and houses burnt down. This is the largest category.
2. Those who have fled to Andhra Pradesh (adjoining district), because of attacks by

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<sup>46</sup> CAVOW, December 2006, [Salwa Judum and the Violence on Women in Dantewara, Chhattisgarh](#)

<sup>47</sup> Nandini Sundar’s “The Burning Forest” is a deeply researched book on the strife, civil war, and displacement of adivasis in Bastar in southern Chhattisgarh

<sup>48</sup> Nandini Sundar is professor of sociology at Delhi University and a co-petitioner in an ongoing PIL in the Supreme Court against the Chhattisgarh government. It was result of this PIL that Salwa Judum was held unconstitutional. Nandini Sundar has been researching and working on Bastar for over 2 decades now.

Salwa Judum and security forces. There they live an uncertain existence with no land ownership at the mercy of the state government's forest department. The numbers here are estimated at 30000-40000 with at least 35 families having fled since September 2009 alone, according to local NGO's. They stand deprived of the rights to which they would be entitled to under Schedule V of the constitution of India, had they been allowed to stay in their home villages.

3. Those who were forcibly relocated to government-run Salwa Judum camps near police stations or paramilitary police camps to prevent the Naxalites from recruiting them and still live there. Initially, 47,239 tribals were forcibly evicted into camps according to a government of Chhattisgarh memorandum.<sup>49</sup> But by 2008, after three years of being held captive in the salwa judum camps, many of the villagers started going back to their village. Those who are left in camps now are mainly supports of Sallwa Judum, according to NHRC report submitted in the Supreme Court of India in the case against Salwa Judum.

A report published by Human Rights Watch in 2008 describes the inhuman conditions of the IDP's<sup>50</sup>:

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

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<sup>49</sup> Submitted in the case WP 250/2007, Annexure 15, Page 271, in the matter of Nandini Sundar & Ors v. State - case filed challenging the constitutionality of Salwa Judum.

<sup>50</sup> “Being neutral is out biggest crime’: Government, vigilante, and Naxalite abuses in India’s Chhattisgarh state (New York: Human rights watch,2008), p.8.

*typically lack even the most basic sanitation and health care facilities... Villagers who fled to Andhra Pradesh also often live in dire circumstances. Many had no financial resources to purchase or rent land when they fled, and thus settled in forested areas. Saying that these settlements are illegal, Andhra Pradesh forest officials have repeatedly evicted villagers, often using excessive force and destroying their homes and personal belongings.*

### **The Tale of Tadmetla<sup>51</sup>**

Between March 11 and March 16, 2011, a police party consisting of police, SPOs and CRPF, carried out combing operations in Morpalli, Tadmetla and Timpuram villages, “as per the orders of the then SSP Dantewada” (FIR 4/2011, filed by DS Marawi). The then SSP Dantewada was SRP Kalluri (in spite of his involvement in the present incident was promoted in 2014 and made the Inspector General of Bastar). In the course of the operations, 3 men were killed – Madvi Sula of Bhandra Morpalli, Badse Bhima of Pulanpad and Manu Yadav of Pulanpad. Three women were raped, 2 in Morpalli and one in Tadmetla. Thirty three houses were burnt in Morpalli, 59 houses in Timapuram and 160 houses in Tadmetla village. When Swami Agnivesh tried to deliver relief to the villages on March 26, he and his companions were brutally attacked by Salwa Judum leaders at Dornapal. On July 5, 2011, the Supreme Court ordered a CBI enquiry into these incidents of violence. On October 17, 2016, the CBI chargesheeted 7 SPOs in the special CBI court in Raipur.<sup>52</sup> It also charged 26 persons, including leading members of the Salwa Judum, such as P. Vijay, Dular Shah, Soyam Mooka and others for the attack on Swami Agnivesh. The cases of rape and murder are still under investigation. The CBI report notes that 323 SPOs/policemen as well as 114 personnel of COBRA and 30 personnel of CRPF participated in the operation. It also points to the concealment of rapes and murders by the Chhattisgarh police.

**In 2011, Supreme court of India held Salwa Judum to be unconstitutional. But even after the formal demise of Salwa Judum, the state’s offensive on the indigenous community has only**

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<sup>51</sup> <http://sanhati.com/articles/17850/> - This is a summary of heinous crimes in Morpalli, Timapuram, and Tadmetla villages in Bastar, Chhattisgarh, in the period between 2007-2011.

<sup>52</sup> <https://indianexpress.com/article/india/india-news-india/security-forces-burnt-160-homes-in-chhattisgarh-village-tadmetla-says-cbi-march-2011-3096011/>

increased. Absence of any rehabilitation or reparation plans by the state coupled with increasing security forces and human rights violations, the displaced community has yet not been able to return and resettle. Instead, because of an increase in fake encounter, gang rapes, illegal arrests, detention and torture by the State, the displacement in the area continues.<sup>53</sup> It is to be understood that with the present attitude of the government, the displaced population will not come back home unless they can be assured peace, freedom and rights, which will come about only if the recognises people's rights over their land and criminal prosecution is initiated against the guilty, and there is an end to the continuing displacement caused by arson in the course of search operations.

### Present Situation

After a spell of relative calm post operation green hunt, terror has resurfaced as the dispossession of adivasis accelerates for extractive and other development projects, Chhattisgarh is witnessing a manifold increase in deployment of security forces, further exacerbating the conflict resulting in unprecedented levels of genocidal violence, mass displacement 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 police stations are cropping up all over the countryside. In North Bastar, 22 paramilitary camps fortify the prospective Raoghat Mines. There has been a **steep escalation in military deployment** in the area in multiple waves in 2014,<sup>54</sup> 2016,<sup>55</sup> and again in 2018.<sup>56</sup> 2018 has witnessed fresh deployment of at least 12,000 additional personnel, 7000 of whom have been re-deployed from other areas.<sup>57</sup> The government has also escalated the recruitment of Special Police Officers, which are armies of local adivasi youth who join

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<sup>53</sup> <https://scroll.in/article/808344/fact-finding-team-raises-fears-of-salwa-judum-like-displacement-in-bastar>

<sup>54</sup> PTI, "Anti-Naxal operations: Government deploys 1,000 fresh ITBP personnel in Chhattisgarh," June 21, 2014 [http://articles.economictimes.indiatimes.com/2014-07-21/news/51831007\\_1\\_itbp-anti-maoist-operations-anti-naxal-operations](http://articles.economictimes.indiatimes.com/2014-07-21/news/51831007_1_itbp-anti-maoist-operations-anti-naxal-operations)

<sup>55</sup> <https://indianexpress.com/article/india/india-news-india/chhattisgarh-crpf-tribal-battalion-maoists-issue-raman-singh-bastar-tribal-battalion-dandakaranya-battalion-2920280/>

<sup>56</sup> <https://timesofindia.indiatimes.com/city/raipur/chhattisgarh-crpf-bastariya-battalion-ready-to-be-commissioned-with-33-women-troops/articleshow/64222359.cms>.

<sup>57</sup> <https://economictimes.indiatimes.com/news/defence/anti-naxal-ops-5000-additional-itbp-troops-to-be-deployed-in-chhattisgarh/articleshow/48348466.cms>; <https://m.dailyhunt.in/news/india/english/news+world-paper-newswore/7+000+crpf+troops+withdrawn+from+4+states+to+be+re+deployed+in+chhattisgarh+for+anti+naxal+ops-newsid-94967866>



state forces against their own families and communities.<sup>58</sup> This defies the decision of the Supreme Court in 2011, while hearing a petition for redress for the Salwa Judum violence, holding the practice of recruiting SPOs unconstitutional.

With increased militarization and corporatization of the state, there has been a parallel intensification of attacks against human rights defenders, particularly those working on issues of displacement, sexual violence<sup>59</sup>, extra judicial killings<sup>60</sup> of the indigenous population. Adivasi leaders/activists<sup>61</sup>, academicians<sup>62</sup>, human rights lawyers<sup>63</sup>, journalists<sup>64</sup> have been subjected to attacks by the State and non-state actors.

### Recommendations

- 1) Full and free enjoyment of the right to housing requires the demilitarization of indigenous lands, and the right of IDPs to return to their homes without fear of further persecution.
- 2) Comprehensive compensation and rehabilitation for all who have suffered loss of life, limb, livelihood, shelter and property, or undergone sexual violence on account of the ongoing conflict as per 2006 UN principles and Guidelines on Internally Displaced Persons 1998. Chhattisgarh state government should establish conditions for and facilitate the safe return or resettlement of camp residents and other displaced persons who voluntarily choose to return to their villages.
- 3) Upholding rule of law by means of registration, investigation and prosecution of all human rights violations, and ceasing the persecution of defenders of the right to land and housing.

<sup>58</sup> <https://indianexpress.com/article/explained/is-the-salwa-judum-back-bastariya-battalion-crpf-chhattisgarh-5190001/>

<sup>59</sup> <https://www.newsland.com/2019/01/18/rape-illegal-detention-extortion-welcome-to-korseguda-in-bastar>, **In Two Districts of Bastar, Adivasi Women Report Sexual Assaults by Security Forces During Military Operations; Police Delay and Resist Filing FIRs** CHITRANGADA CHOUDHURY 24 January 2016 <https://caravanmagazine.in/vantage/bastar>

<sup>60</sup> <https://scroll.in/article/818195/extrajudicial-killings-how-two-teenaged-girls-in-chhattisgarh-are-leading-a-fight-for-justice>, <http://sanhati.com/articles/18518/>

<sup>61</sup> **The attack on Soni Sori follows her attempts at holding the police in Bastar accountable**, ATUL DEV, 24 Feb 2016, <https://caravanmagazine.in/vantage/soni-sori-attack>

<sup>62</sup> <https://www.hindustantimes.com/india-news/chhattisgarh-police-clean-chit-to-nandini-sundar-in-murder-case/story-6bWAZ4zEecD1CQBiKVibXP.html>

<sup>63</sup> <https://www.thehindu.com/news/national/other-states/police-target-scribe-legal-aid-group-in-bastar/article8255778.ece>

<sup>64</sup> <https://scroll.in/article/803821/how-the-chhattisgarh-police-succeeded-in-hounding-out-those-who-questioned-it>, <https://timesofindia.indiatimes.com/city/raipur/Chhattisgarh-journo-Malini-Subramaniam-forced-to-pack-up-quit-Bastar/articleshow/51059878.cms>, <https://thewire.in/law/chhattisgarh-journalist-santosh-yadav-granted-bail>, <https://www.hindustantimes.com/india/pen-or-gun-scribes-in-chhattisgarh-stuck-between-cops-and-maoists/story-LQacqjTnI8MOGp1jb7szL.html>,



## LIVELIHOODS AND LIVING CONDITIONS

Large-scale mining, militarization and displacement has ripple effects on the right to adequate housing, as they are responsible for the destruction of secure and traditional livelihoods, and the creation of perilous living conditions. With the scale of militarization, peoples live under tremendous physical insecurity and a continuing “environment of fear”.

### Livelihood Insecurity

- Access to cultivable land and forest commons are the primary sources of livelihood in Chhattisgarh. The majority of the tribal population in Chhattisgarh is engaged in agriculture with more than 80% of the population dependent on agriculture. Main crops are paddy, maize, pulses and oil seeds. Over 70% of the total workers excluding marginal workers are engaged in cultivation or as agricultural laborers. Other sources of income are also derived from the forest and forest produce e.g. sale of tendu leaves.
- Mining, displacement and militarization has generated immense livelihood insecurity due to the loss of land, destruction of commons and air, water and soil pollution. Serious threats to physical security and constant patrolling has also generated an environment of fear that greatly inhibits mobility and exercise of land and forest rights. Large scale industrialisation has not only resulted in their lands being acquired but also leaves them with no alternate source of livelihood. In the case of NMDC (Case study 3 of the previous chapter) of the people who lost their land in 2001, out of 303 people, 100 were given jobs in 2002 and remaining 200 could get the job only in 2010, after long drawn struggles and protest by the people. For those who gave their lands in 2010 for higher compensation, out of 1052 people, only 838 were registered for jobs, but none of them have been given job till now. During the recruitment in 2001 & 2010, women were left out from job registration.<sup>65</sup>This along with apathy of the government has led to mass migration of adivasi's to urban areas.<sup>66</sup> Last year, the present government reduced minimum support price (MSP) on minor forest produce. As a result, thousands of tribals have been forced to leave the forests to look for employment in cities.<sup>67</sup><sup>68</sup><sup>69</sup>

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<sup>65</sup> <http://cgbasket.in/?p=8575>

<sup>66</sup> <https://www.firstpost.com/india/travels-through-the-hindi-belt-as-mgnrega-projects-dry-up-chhattisgarh-labourers-migrating-south-face-squalor-slave-like-conditions-6178281.html>

<sup>67</sup> <https://www.newsclick.in/low-msp-minor-forest-produce-forcing-chhattisgarh-tribals-throng-cities-jobs>

- Chhattisgarh's vast northern region that includes Surguja, Korba, Jashpur, Korea and Raigarh districts is infamous for human trafficking cases. Instances of men taking away impoverished girls to big cities on the pretext of providing them jobs and forcing them into prostitution have been on a steady rise in the past decade.<sup>70</sup>
- Even as industrialisation continues at It is reported that more than 9000 women and girls from Bastar have been trafficked to cities and other areas as a consequence of the displacement and conflict.<sup>71,72</sup>

### **Environmental and Health Issues**

- The generation of electricity by coal fired thermal power plants which would include the mining of coal, transportation, washing and preparation at the power plant, combustion and the disposal of post combustion wastes carry serious risks on the health of miners, plant workers and residents in the vicinity of mines and power plants.<sup>73</sup> Their environment, physical and mental health gets compromised through exposure to worrisomely high levels of toxic heavy metals found in air, water, soil and sediment. The damaging impact of large scale coal industries in the Chhattisgarh state of India on its people and the environment in which they live in a call for urgent action to rethink policies and practices of meeting energy needs through destructive energy practices in light of an upsurge of clean, sustainable and healthier options available today.
- Raigarh in Chhattisgarh has been home to several plants and coal mines, all but one of which are privately operated, for almost two decades. The people in the surrounding villages have

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<sup>68</sup> <https://www.dailypioneer.com/2015/state-editions/rural-migration-is-still-chhattisgarhs-biggest-challenge.html>, *Internal-Migration of Chhattisgarh: Socio-Economic aspect 1* Parvaze A. Lone, 2Naseer A. Rather-  
<http://www.iosrjournals.org/iosr-jbm/papers/Vol4-issue3/10434649.pdf?id=5433>, *Chhattisgarh exodus:100,000 villagers migrate in three years* - <https://www.thenewsminute.com/article/chhattisgarh-exodus100000-villagers-migrate-three-years>, *Migration of Bastar tribals to other states rocks Chhattisgarh Assembly-*  
<https://timesofindia.indiatimes.com/city/raipur/Migration-of-Bastar-tribals-to-other-states-rocks-Chhattisgarh-Assembly/articleshow/51322437.cms>

<sup>69</sup> <https://www.thehindu.com/2002/12/07/stories/2002120704330500.htm> **Distress migration of tribals from Bastar**

<sup>70</sup> <http://www.sruti.org.in/?q=news-media/human-trafficking-continues-rise-jashpur-chhattisgarh>

<sup>71</sup> <https://kractivist.org/india-bastars-ugly-secret-9000-girls-have-been-trafficked-in-the-past-decade-vaw/>

<sup>72</sup> <https://scroll.in/latest/824913/chhattisgarh-70-people-including-33-children-rescued-from-being-trafficked-in-bastar>, *Trafficked to die: What happened to these young girls from Bastar, Malini Subramaniam, Scroll-*  
<https://scroll.in/article/802704/trafficked-to-die-what-happened-to-these-young-girls-from-bastar>,  
<https://www.financialexpress.com/india-news/human-trafficking-racket-busted-in-chhattisgarh-70-rescued/482421/>, <https://timesofindia.indiatimes.com/city/raipur/Not-only-jashpur-tribal-Bastar-also-hub-for-child-trafficking-in-Chhattisgarh/articleshow/47696044.cms>

<sup>73</sup> <https://thewire.in/environment/in-chhattisgarh-adanis-coal-mine-leaves-a-village-parched-this-monsoon>

been living here for much longer than that, farming and raising livestock. Since the mines and plants were set up, they have lost agricultural land and the surrounding forests, which had been another source of sustenance for the villagers. They have been organising protests and writing numerous letters to officials, all falling on deaf ears.

- A health study conducted by medical and public health experts of People First Collective India<sup>74</sup> in Raigarh has found serious health problems among the residents living around coal mines and thermal power plants in Tamnar block of Raigarh district, Chhattisgarh. The study titled *Health and Environmental Impact of Coal Mining in Chhattisgarh*<sup>7576</sup>, surveyed more than 500 people in 3 villages of Tamnar Block within 2-kilometer radius of power plants and coalmines. According to the report “health-related complaints identified amongst participants in this study are significantly high. Ten most prevalent chronic health conditions among residents interviewed included hair loss and brittle hair; musculoskeletal joint pain, body ache and backache; dry, itchy and/or discoloured skin and cracked sole; and dry cough complaints.” Also according to the findings of the study, “women predominantly experienced these chronic health problems of which dry cough and shortness of breath (77%), hair loss (76%) and musculoskeletal/joint pain (68%) were most prevalent”.
- In 2013-2014, people from Sarasmal and Kosampalli villages monitored the air pollution with the help of some NGOs and were startled by their findings. Water levels in the rivers and ponds had fallen; they found that fly ash was forming a layer on everything it could land on, from treetops to rooftops. Soil, air and water samples were obtained and analysed from these villages. Most villagers depend on underground water sources such as tube wells and borewells for drinking water, and ponds and streams for bathing, washing and for animals. Air samples showed high levels of arsenic, lead, nickel, manganese and silicon – higher than the permissible limit specified by Indian standards. They also showed excessive quantities of gases like NOx and carbon monoxide. The soil and water samples were equally pathetic.

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<sup>74</sup> People First Collective, India (PFCI) brings together professionals, environmentalists and social activists deeply concerned at evidence of complete disregarding for human rights and the destruction of our natural environment in the wake of India’s economic ‘miracle’.

<sup>75</sup> Research for Health and Environmental Impact of Coal Mining in Chhattisgarh has been undertaken by a team of medical and environmental professionals who have worked in partnership with People First Collective, India and Adivasi Dalit Mazdoor Sangathan, a social organisation in the Raigarh district of India’s Chhattisgarh state.

<sup>76</sup> *Health and Environmental Impact of Coal Mining in Chhattisgarh-*  
[https://pfcollectiveindia.files.wordpress.com/2017/11/raigarh\\_report\\_final-2.pdf](https://pfcollectiveindia.files.wordpress.com/2017/11/raigarh_report_final-2.pdf)

- Chhattisgarh's Korba region is the power capital of the state as it is home to many coal mines and thermal power plants. But the aggressive and unchecked push for power has led to a disastrous impact on the ecology of the area. Open transportation of coal, black trees, mounds of ash are a common sight in the region. The lives of people are threatened not only by the poor quality of air but also by polluted water due to discharge from power plants which is impacting their crops.<sup>77</sup>

The damaging impact of large-scale industries in the Chhattisgarh state of India on its people and the environment in which they live in call for urgent action to rethink policies and practices of meeting energy needs through destructive energy practices in light of an upsurge of clean, sustainable and healthier options available today.

### **Recommendations**

- 1) Social Impact Assessment and Environmental Impact Assessment to be made mandatory under law. States to also set up institutions and processes of ongoing monitoring, review and accountability of state and non-state actors for pollution of indigenous land and resources, compliant with the overall right of indigenous peoples to participate in decision-making affecting their rights and development.
- 2) Adequate and prior compensation and rehabilitation of persons displaced by projects, with their free, prior and informed consent.
- 3) Accountability of state and non-state actors for physical and sexual violence, destruction of property and livelihoods.

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<sup>77</sup> <https://india.mongabay.com/2018/11/quest-for-black-diamond-leaves-korba-breathless/>

## CONCLUSION

Adivasi communities represent a substantial and important proportion of Indian population and heritage. Less than ten countries in the world have more people than we have tribals in India. Not only are they crucial components of the country's human biodiversity, which is greater than in the rest of the world put together. It is clear that the country has been witnessing gross violation of the rights of the poor, particularly tribal rights, which have reached unprecedented levels since the new economic policies of the 1990s. The entire executive and judicial administration appear to have been totally apathetic to their plight.

The development model which has been adopted and which is sharply embodied in the new economic policies of liberalization, privatization and globalization, have led in recent years to a huge drive by the state to transfer resources, particularly land and forests which are critical for the livelihood and the survival of the tribal people, to corporations for exploitation of mineral resources, SEZs and other industries, most of which have been enormously destructive to the environment.

It could well be the severest indictment of the State in the history of democracy anywhere, on account of the sheer number of people (tribals) affected and the diabolic nature of the atrocities committed on them by the State, especially the police, apart from the enormous and irreversible damage to their habitat. Peaceful resistance movements of tribal communities against their forced displacement and the corporate grab of their resources is being sought to be violently crushed by the use of police and security forces and State- and corporate-funded and armed militias. The militarization of the State has reached a level where schools are occupied by security forces. Even peaceful activists opposing these violent actions of the State against the tribals are being targeted by the State. This has led to a total alienation of the people from the State as well as their loss of faith in the government and the security forces.

The Supreme Court succinctly described the situation in its order banning salwa judum<sup>78</sup>:

*"The justification often advanced by advocates of the neoliberal development paradigm, as historically followed, or newly emerging in a more rapacious form in India, is that unless development occurs, via rapid and vast exploitation of natural resources, the country would not be able to either compete on the global scale, nor accumulate the wealth*

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<sup>78</sup> <https://indiankanoon.org/doc/920448/>

*necessary to tackle endemic and seemingly intractable problems of poverty, illiteracy, hunger and squalor. Whether such exploitation is occurring in a manner that is sustainable, by the environment and the existing social structures, is an oft debated topic, and yet hurriedly buried. Neither the policy makers nor the elite in India who turn a blind eye to the gross and inhuman suffering of the displaced and the dispossessed provide any credible answers. Worse still, they ignore historical evidence which indicates that a development paradigm depending largely on the plunder and loot of the natural resources more often than not leads to failure of the state; and that on its way to such a fate, countless millions would have been condemned to lives of great misery and hopelessness."*

## ANNEXURE A: CONSTITUTIONAL AND STATUTORY GUARANTEES ON SELF-GOVERNANCE AND TENURE RIGHTS FOR INDIGENOUS PEOPLES

<p><b>Fifth Schedule, Constitution of India 1950</b></p>	<ol style="list-style-type: none"> <li>1) Grants <b>autonomy</b> in Scheduled Areas to local institutions of self-governance through customary law for governance of traditional homelands, prohibition of land alienation, among others</li> <li>2) The Governor of the state of Chhattisgarh is vested with the authority to limit or modify the application of central or state laws in Scheduled Areas in the interest of good governance, on the advice of the Tribes Advisory Council (TAC)</li> <li>3) The executive power of the state extends to the administration and control over Scheduled Areas</li> </ol>
<p><b>Chhattisgarh Panchayati Raj Adhiniyam 1993 and Panchayat (Extension to Scheduled Areas) Act 1996 (PESA)</b></p>	<ol style="list-style-type: none"> <li>1) Recognizes <b>self-governance</b> over lands, forests and natural resources by Gram Sabhas (village assembly) in Scheduled Areas</li> <li>2) Unlike central law on the same subject (PESA), <b>does not mandate prior consultation</b> with Gram Sabhas for proposed projects on their customary lands and forests. PESA provides that the Gram Sabha or the Panchayats shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas.</li> <li>3) 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.</li> <li>4) PESA also states that the Gram Sabha is particularly endowed with the power to <b>prevent alienation of land in the Scheduled Areas</b>, and to take appropriate action to <b>restore any unlawfully alienated land</b> of a ST.</li> </ol>
<p><b>Forest Rights Act 2006</b></p>	<ol style="list-style-type: none"> <li>1) Recognizes a bundle of rights as the <b>pre-existing forest rights</b> of STs and Other Traditional Forest Dwellers (OTFDs) to community</li> </ol>

<p><b>(FRA)</b></p>	<p>forests (CFR), household lands (IFR), forest produce etc., individually and collectively.</p> <p>2) Also recognizes “habitat rights” of Particularly Vulnerable Tribal Groups (PVTGs)</p> <p>3) Recognizes the <b>authority of the Gram Sabha</b> (village assembly comprising all adult members with the full and unrestricted participation of women) <b>to manage, protect and conserve forests</b></p> <p style="padding-left: 40px;">a. In 2013, the Supreme Court of India held that the overall authority of the Gram Sabha to manage and protect forests mandates their <b>free, prior and informed consent</b> for any proposed project or activity affecting their rights: <i>Orissa Mining Corporation v. Ministry of Environment and Forests</i></p> <p>4) Lays down a <b>procedure for the recognition and verification of forest rights</b>, with the Gram Sabha as the primary authority</p> <p>5) Protects against dispossession until rights settlement processes are complete</p>
<p><b>Other relevant protective legislations:</b></p>	<p>1) Chhattisgarh Land Revenue Code: recognizes customary self-governance over indigenous land and forests, and prohibits alienation of ST land in Scheduled Areas to non-STs</p> <p style="padding-left: 40px;">a. In 1997, the Supreme Court of India held that the prohibition against alienation of tribal land to non-tribals extends to land acquisition by the state as well: <i>Samata v. State of Andhra Pradesh</i></p>