

Visit of the Fact Finding Team of
The Indian Human Rights Council, Pune

BORIYA-KASANSUR OF BHAMRAGAD TEHSIL IN GADCHIROLI DIST. OF MAHARASHTRA

Between May 3 and 5, 2018
To find out reality behind the Encounter of
Maoists By C-60 Gadchiroli Police



INDIAN HUMAN RIGHTS COUNCIL
PUNE







FACT FINDING REPORT IN GADCHIROLI ANTI NAXALITE ENCOUNTER OPERATION

Indian Human Rights Council headed by Mr. Avinash Mokashi carried an intensive fact-finding mission on one of the biggest reprisals against the ultra-left Naxals in the Gadchiroli district of Maharashtra. A committee comprising most of the local persons having the feel of the hostile terrain and the terror-filled atmosphere visited the ground zero and engaged the locals including the families of the terrorists killed, and the Naxal-harassed populace. Here is the detailed report on the encounter.

BACKGROUND

Gadchiroli with its thick forests touching the borders of Andhra Pradesh, Chattisgarh and Madhya Pradesh has become notorious for the concentration of the Left Wing Extremists for almost five decades. Because of the hostile terrains and difficulties in reaching out to the remote areas, Gadchiroli provided easy passage to the extremists to move freely from Andhra Pradesh to MP and Chattisgarh. Hostile terrains with dense forests, poverty-stricken Adivasis, and alleged indifference of the government officials earlier was conducive in making the region a hotbed of the Maoist movement.

The Naxal movement is reportedly being financed through a network of dubious activities undertaken by its leaders. These activities include levy from private contractors, including those involved in the execution of government schemes, mining contractors, transporters and owners of small and medium industries. Similarly, funds are also generated through collections from illegal activities, such as mining in non-specified areas, illegal stone crushing and collection of “tendu-patta”.

Over the last 4-5 years, however, there has been a considerable decline in the Maoist incidents and casualties of security force personnel and civilians. The Home Ministry has corroborated this change, in its report which says that the multi-pronged strategy of Narendra Modi government including security and development measures has led to the decline in Naxal influence. Besides the operational efficiency of the district police unit, the government’s policy of giving free-hand to the police force and a number of other policy changes initiated by the state government have emboldened the locals to come out openly against the Naxal menace in the region.



After a review by the government, the number of Maoist-affected districts in the country has come down to 90 from 126. However, the militants re-gather and go for fresh recruits after a temporary lull in their activities.

THE ENCOUNTER

On 22nd April 2018 Media reported about the encounter between Police and members of Armed Naxals, at Boriya-Kasnasur of Bhamragad Tehsil of Gadchiroli District of Maharashtra and reported killings of 16 activists of the banned organisation namely the CPI (M).

On the same day, a Press Note was issued by the District Superintendent of Police, Gadchiroli giving details of the Police Encounter confirming the encounter. In the Press Note, the Police had clarified that during the operation against the Naxalites in the forests of Kasnasur of Bhamragarh subdivision, the C-60 unit and CRPF-9 battalion soldiers jointly carried the operation and when Maoists started firing on the forces, they responded to them with fire for self-protection. C-60, comprising 60 police personnel, is an elite police commando force created in 1992 to counter Naxal menace in Gadchiroli district. The innovative concept was introduced by then superintendent of police of Gadchiroli, Shri K P Raghuvanshi (IPS) and since then the commandos of the force are being trained on various types of guerrilla warfare.

Further, during the combing operations, the police could locate 16 dead bodies of the Maoists and a huge cache of weapons with Naxal propaganda material was recovered from the ground. Even some of the dead bodies were reportedly found with weapons like AK-47. The Press Release also mentioned the possibility of the death of 2 top ranking commanders of Naxals viz. Srinu @ Srikant and Sainath.

Subsequently, on 24th April 2018 Police issued another Press Briefing in which it was confirmed that out of the 16 bodies recovered, 11 persons had been identified. The dead persons include 12 important wanted persons against whom the government has announced prize money of Rs.82 lakh.

In the Press Release of 27 April 2018, the Police have announced that out of 39 dead bodies 18 have been identified, and 13 have been handed over to their relatives while nobody came forward to claim the bodies of 5 persons.

PROTESTS BY PRO-NAXAL NGOS

During the period between 5th and 7th May 2018, a team of about 44 members across India from 12 states, comprising local representatives, assisted by a Political party reported to have visited the area. On 7th May 2018 the fact-finding team of Political party and supporters of Naxals held a press conference in Gadchiroli. The group also comprised of members of 'Coordination of Democratic Rights Organization', 'Indian Association of People's Lawyers' and 'Women against State Repression and Sexual Violence' which are known front organisations of the CPI(M). The group stated the following findings and demands:

- The group has demanded judicial enquiry into the "fake" encounters at Boria-Kasansur forest area besides others.
- It has demanded withdrawal of allegedly false cases against civil society members.
- The group demands complete removal of police and paramilitary from the area.
- The group also demands withdrawal of amendment to PESA Act that does away with the need for gram sabha consent.
- In the short period after the encounter when police were in the process of identifying the dead, the group has termed the encounter as fake.
- According to them, C-60 police and CRPF surrounded the Maoists on all sides and opened fire indiscriminately by using sophisticated weapons like Under Barrel Grenade Launchers with an intention to kill and as such it is a cold-blooded mass murder. The team questions the version of the police with regards to the encounter.



- The communiqué from the group states that 8 young persons have been reported missing since the 22nd of April from the Gatepalli village. They left the village for a wedding. None of the missing minors have been identified except one Rashu Chako Madavi.
- Questions were raised as to how the bodies were found in uniforms.

Interestingly, some of the activists who took the initiative have a criminal record and have been charged under IPC 153, 147, 149 dealing with inciting a riot, rioting and unlawful assembly.

Further, the most noteworthy fact is that in open defiance of the fear of the Maoists, the group was confronted by the local people from Gadchiroli calling themselves as 'Naxal Peedit Sanghatana' and challenged them for supporting the armed Naxals who were harassing the locals. The locals demanded that all the activities in the name of protecting them done by the Naxals which made their lives miserable should be resisted. The group members were seen inciting the local villagers that they the villagers are not really Naxal-Peedit but Raj-Peedit meaning distressed by the presence of the government.

Even a cursory look at the demands made by these front organisations reveals that encounter is only an opportunity to openly support the Naxal activities of the banned CPI(M). Only two demands are related to the encounter and rest of the demands are directly linked with promoting and protecting the Naxal activities. Therefore, Human Rights are being used as a garb under which the Naxal agenda of killings, extortions, abductions, sexual abuse of minors is being legitimised. The survey and the press conference is nothing but an openly organised support activity of banned Naxal organisations. It was under these compelling circumstances that IHRC came forward to intervene and provide a realistic picture of the entire episode.

WHY IHRC INTERVENTION?

1. Ever since the introduction of the Human Rights, an atmosphere has been created that the Human Rights are only for Criminals and those who themselves are violators of human rights of the innocent people and the forces engaged in combating the insurgency and terrorism.
2. A section of the activists for human rights is seen openly supporting and working for the terrorists, anti-nationals, whether in Jammu & Kashmir or in the regions affected by Left Wing Insurgency in India. This deliberate support creates a skewed view of the human rights defenders which needs to be negated once for all.
3. By some strange logic, these so-called activists are silent when human rights of the innocent tribals, law-abiding citizens, public servants, police personnel and those working in the armed forces in the discharge of their duties are flagrantly trampled upon by violent means.
4. None of these 'fake' activists had uttered a word of human rights violation when during the nation-wide emergency, hundreds of thousands of citizens were put behind bars for months together with no legitimate reasons.
5. For fear of reprisals from the underground left-wing insurgents, none of the political parties is coming forward against the anti-national activities of Naxals.

MANDATE OF THE STUDY:

It has been observed on many occasions in the past that as soon as the District Police establishment conducts any anti-Naxal operation and the Naxal casualties are reported in the media, some NGOs and their activists immediately swoop down with a cry of violation of human rights without even a genuine fact-finding. Indian Human Rights Council, therefore, takes it upon itself to establish the facts about the combat action by the police against the Maoists in Gadchiroli District. In the following paragraphs, we have discussed how the police forces were engaged .



METHODOLOGY :

The Indian Human Rights Council team with the Maharashtra President Mr. Gajendra Domale spoke to the members of the police force C-60 who had participated in the operations to comb the area on an alert received about the presence of the anti-national banned outfit called CPI(M).

The Indian Human Rights Council team travelled extensively in the region affected by red terror and particularly in Kasnasur, Bhamragad, Gattepalli and Aheri where these deaths took place.

The eight member team identified to undertake the IHRC fact-finding mission was carefully organised.

- i. The members came from the affected region viz. Gadchiroli and Chandrapur and had complete knowledge of the local language and topography. They were also fully aware of the tribals and villagers sensitivities.
- ii. The team insisted on not taking any police protection to put the locals at ease while discussing the sensitive issues. This neutral approach was necessary because the tribals and the villagers are caught in the police-Naxal skirmishes and therefore are reluctant to open up before the complete strangers.
- iii. The team members had overcome the fear of facing the hostilities from the Naxal members because they had already seen the trauma of the people in the villages suffering from the red terror.
- iv. The team members could relate themselves with the tribals and villagers, and therefore the interaction was free and without any stress or fear. There was no presence of the police party during the interviews with the villagers.
- v. Villagers received them with smiling faces and were very friendly in their talks.
- vi. Villagers participated in the conversation and volunteered a lot of information.

IHRC has received the following version of how the encounter took place from one of the police constables had participated in the event. His name is withheld to maintain the anonymity.

The police constable reported that acting on the information that the members of the central committee of the banned Communist Party of India Marxists including Ganapati, Bhupati, Basavraj, Kakam Sudarshan, Kosa or Gopanna, Chandranna, Milind Teltumade, Prabhakar, Narmada Akka, Radhakka, Balanna and others had gathered and conspired to carry out activities of the nature of anti-national and anti-government.

During the combing operations, the Naxal members were spotted moving in the Kasnasur Boriya forest area who were attired in the fatigue uniforms and carrying sophisticated weapons. The team was divided into two groups one to cross the river Indravati about half a kilometre behind and the other from the western end of the river. The Naxalites started firing from the covers sensing the presence of the police. The police took a secured shelter and made several announcements to them to surrender. However, defying the announcements, Sainath and his team members Nagesh, Madhuri, Anita, Jaysheela, Tirupati, Shrikant, Dharmu, Dhanu, Rajesh, Suman, Sannu were heard being given instructions to take positions and attack. There was a heavy fire attack from the Naxals and instructions being given loudly in Telugu language were heard. Police responded with a return fire in self-defence. Both the police teams managed to coordinate and fire retaliatory rounds. During the firing altogether 16 persons (7 women and nine men) were found dead in the police firing. The police recovered 2 AK rifles, 2 SLR Rifles, one 303-Rifle, ten boar rifles, 8 mm rifle one from the ground. Six of the police force members were also found injured in the incident.

Immediately after the encounter, following cases came to be registered describing the detailed operational activities.



॥अहर्थाधिकारः॥



CASE NO. 1

1.	Case No. Police Station & sections of law.	Bhamragad Police Station C. R. 12/2018 u/s 307, 353, 120 (B) 143, 147, 148, 149, IPC r/w Sec. 16,18,20 & 23 of UAP Act (Unlawful Activities Prevention Act) and Sec. 5 / 28 Indian Arms Act, 135 Maharashtra Police Act
2.	Name of Complainant	Kailas Devu Kowase, PC 3802 of Special Force C-60 DistGadchiroli
3.	Date of Occurrence	22/04/2018 09.00 hrs to 22/4/2018 11.30 hrs.
4.	Date of Registration	24/04/2018 20.20 hrs. Station Diary: 33/2018 20.20 hrs.
5.	Place of Offence.	11 Kms South AOP Tadgaon Mauje Boria- Kasnasur Forest area Tahsil Bhamragad, Dist Gadchiroli.
6.	Name of the accused.	1) Ganapati,2) Bhupati Basawraj Katkam, 3) Sudarshan, 4) Posa @Gopanna, 5) Chandranna, 6) MilindTeltumde, 7) Prabhakar, 8) Narmadaakka 9) Radhakkaa, 10) Balanna 11) Joganna 12) Bhaskar 13) Sainath, 14) Nagesh, 15) Madhuri 16) Anita, 17) Jaisheela 18) Tirupati, 19) ShrikantDharmu 20) Dhanu ,21) Rajesh 22) Suman 23) Sannu, 24) Nandu 25) Lata, 26) Shanta, 27) Jaini, 28) Chandrakala, 29) Sandeep, 30) Mangesh, 31) Vikas, 32) Bhupesh
7.	Weapons Recovered	1) AK Ryfal- 02, 2) SLR-02, 3) 303 – 01, 4) 12 Bore -10, 5) 8mm-01 and other articles (16)
8.	00/2018 At Aheri.	The case was initially registered at C.R. 00/2018 at Aheri Police Station on 23/4/2018, by ASI Sandip Hajare and subsequently transferred to Bhamragad Police Station, registered by PC 3970 GajananBawanthade and was taken up for investigation by PI Madne of Bhamragad Police Station and SDPO, Bhamragad Tanaji Burde.
9.	Brief Facts of the case.	A reliable information was received to the effect that on 21/4/2018 at and near Boriya-Kasnasur area of Gadchiroli District members of Banned Organisation by Govt of India, namely CPI (Mao), members of central committee are meeting to plan an anti-national offensive, / to destabilise the Government and further information was received to the effect that in furtherance of the criminal conspiracy the members are meeting with Deadly weapons and arms in Uniform. On 22/4/2018 while the patrolling team of CRPF Battalion 9 received gunshots from the opposite direction. The team leader somehow took shelter and appealed to the firing Naxals to stop firing and surrender to Police. However, they did not regard the appeal and continued firing on Police team. In retaliation the Police team opened fire wherein 16 Naxals were killed in the encounter in self defence.



CASE NO. 2

1	Case No. Police Station & sections of law.	Damrancha Police Station C.R. 003/018 u/s u/s 307, 353, 120 (B) 143, 147, 148, 149, IPC r/w Sec. 16,18,20 & 23 of UAP Act (Unlawful Activities Prevention Act) and Sec. 5 / 28 Indian Arms Act, r/w Sec.4, 5 of Indian Explosives Act 135 Maharashtra Police Act.
2	Name of Complainant	Mr.Akshaykumar Thikne, PSI attached to Spl Force Aheri, DistGadchiroli.
3	Date of Occurrence	23/04/2018 at 17.00 to 23/04/2017 at 17.30 hrs. Station Diary Entry No. 14/2018
4	Date of Registration	24/4/2018 at 05/00 hrs.
5	Place of Offence.	Nanner Forest 14 kms South, Tal Aheri, DistGadchiroli.
6	Name of the accused.	Ganapati, Bhupati, Basavraj, KatkamsudarshanKorsa @Gapanna, Chandrakala, MilindTeltumde, Prabhakar, Narmadaakka, Radhakkaa, Balanna, AheriDalam commander Nandu. Lata and other 20-30 armed Naxals.
7	Name of the IO	The case was registered by Ravindra Manohar Kumbhare No. 2086 and was taken up for investigation by Anil Lawate, PSI.
8	Brief Facts of the case.	A reliable information was received to the effect that on 23/4/2018 at Damrancha, Mauje Madgu-Nainer area of Gadchiroli District members of Banned Organisation by Govt of India, namely CPI (Mao), members of central committee are meeting to plan an anti national offensive, / to distabilise the Government and further information was received to the effect that in furtherance of the criminal conspiracy the members are meeting with Deadly weapons and arms in Uniform. On 23/4/2018 at about 17.00 hrs while the patrolling team of Operations wing (Abhiyan) received gun shots from the opposite direction. The team leader somehow took shelter and appealed to the firing naxals to stop firing and surrender to Police. However, they did not regard the appeal and continued firing on Police team. In retaliation the Police team opened fire where in 6 Naxals were killed in the encounter in self defence.

There is no reason to disbelieve the versions given by the eye witness which is a part of the government record and the FIR.

CASE NO. 3

1	Case No. Police Station & Sections of Law	Permili Police Station C. R. No. 02/2018 Dt. 29/04/2018 u/s 363 IPC & 83 Juvenile Justice and Care Act 2000
2	Name of Complainant	Smt. Powari Chikku Madavi, age 40 yrs. r/a Gattepalli, Tehsil Ettapalli, Gadchiroli.
3	Date of Occurrence	21/4/2018 to 28/4/2018
4	Date of Registration	29/4/2018 at 16.00 hrs. SDE No. 20/18 at 16.00 hrs.
5	Place of Offence.	Gattepalli Tehsil Ettapalli, DistGadchiroli.
6	Name of the accused.	Sainath @ DoleshMadiAtram r/a Gattepalli.
7	Number of the Child.	RassoChukkuMadavi age 15 years.
8	Name of the IO	Baburao Raut.
9.	Brief Facts of the case.	The complainant is the mother of the victim kidnapped child. On 21/4/2018 at about 20.00 hrs the daughter RasoChukuMadavi left from the house and told that she was going to Kasnasur to attend the marriage of Soma Madavi. On 23/4/2018 other villagers namely GongluMukaGawade and TulsiGawade who also had gone for the marriage, came back to the village. However, Raso Chuku Madavi did not come. Therefore, when asked, it was informed that RasoMadavi and other who had gone to Kasnasur did not attend the marriage. As such when the dead bodies of the naxals who were killed in the encounter were shown, the complainant identified the dead body of her daughter. She further informed that her daughter had links with Sainath @ Doles Madi Atram and he used to receive food etc from her. As such she lodged complaint against Sainath @ Doles MadiAtram.



Note: This case came to be registered on the basis of the complaint filed by the mother of the minor girl who was killed in the encounter. During the study it was disclosed that the Naxal Commander Sainath @ Doles Madi Atram and the deceased minor girl are from the same village, i.e. Gattepalli and the Naxal commander, Sainath frequently used to lure the minor girl and take her away for Naxal activities. The parents of the minor girl identified the dead body. However, this fact was confessed by the mother of the deceased girl only when the case came to be registered and not earlier.

The girl among others had left the village on the pretext of attending the marriage as claimed by the pro Naxals in their press conference. Not surprisingly, this case of the minor girl came to be vociferously defended by the group who displayed this as an example of police brutality. However, the facts as borne out of the direct discussions with the people involved are that the girl was neither invited for the marriage nor did she attend the marriage on the day of the encounter and that her body was found far away from the venue of the wedding.

CASE NO. 4

1	Case No.	Dhanora Police Station, Gadchiroli District C. R. No. 35/2018 Dt. 05/05/2018 u/s 302, 143, 147, 148,149, 120(B) IPC & 5 & 28 Arms Act
2	Name of Complainant	DhaniramGandojiPada, r/a Horekasa, Dhanora, Dist. Gadchiroli
3	Date of Occurrence	Friday 4th May 2018 at 23.00 to 23.50
4	Date of Registration	05/05/2018 at 15.47. SDE No. 33/2018.
5	Place of Offence.	Horekasa, Tal. Dhanora, Dist Gadchiroli.
6	Name of the accused	CPI (M) Chatgaon Committee & Company members 1) SurlalParchak 2) Yogesh Tulavi, 3) Raju Gawade 4) ManiramAatla, 5) Roshna Kuswami and others 25-30 Armed Naxalites.
7	Number of Casualties	One
8	Name of the IO	Himmatrao Sargar.
9.	Brief Facts of the case.	The complainant is the resident of Horekasa, Mendhatola. On 4/5/2018 he and his other family members went to sleep at about 22.00 hrs. At about 23.00 hrs or so, some one came to his house and asked to wakeup. He opened the door and noticed three person in green uniform, with guns in their hand apparently Naxals. One of them asked him to come to the chowk where all other villagers were gathering. When he went at the place he observed that total 5 Naxals with guns and other 30-35 Naxals. They informed that earlier in last incidents in the village, someone from village gave information to the Police. At that time the complainant's brother Pandurang retaliated and said no one from the village intimated Police. On that issue Pandurang was taken away be the Naxlite and after 15 minutes the villagers heard Gun fire and subsequently found the dead body of his brother Pandurang.

Immediately before the visit of the pro-Naxal group, on the day May 4, in the dead of midnight between 23.00 and 23.50 hours, the Naxals came to the village in an organised manner and brutally killed one Pandurang Pada at Horekasa. The victim of the Naxal activity was a suspect police informer. Hence within hours of the team's visit to the area when such a killing takes place, the police certainly have enough clues to investigate how the so-called fact-finding committee is in constant contact of these Naxal people.

Note: The brief facts described above are drawn from the FIR filed but do not constitute the full FIR.

VISIT OF IHRC TEAM TO THE ENCOUNTER SPOT



Visit of the Fact Finding Team of The Indian Human Rights Council



Post Encounter Operation Physical Evidence found by the IHRC Team: A well equipped haversack with detonating switch etc. locally called pitto.



The IHRC team following the encounter trails across the river Indravati near Kasnasur.



IHRC team interacting with the affected villagers



In discussion with the villagers.



One more physical evidence of the naxal presence and the equipments carried by the naxals.



Pitto



IHRC team



Villagers willing to write their account of encounter.



IHRC Defender carrying the pitto



The visit to Kasnasur



॥अहर्थाधिकारः॥



Voluntary disclosures by the villagers



IHRC LED SAMVEDANA SABHA

A meeting of some of the Naxal affected victims was also held in Gadchiroli on 10th May 2018. Out of more than 524 such identified Naxal-affected victims, 19 persons were personally interviewed, and their grievances were given a patient hearing. The Naxal affected persons have been issued certificates by the respective Superintendents of Police to that effect providing details of the specific case. Every person we held interaction with has had a story to tell – a horrifying story of how the Naxals are rampantly violating the Human Rights of the ordinary citizens, innocent tribals - un-educated, economically weaker and un-organised villagers. The interviews of the “Naxal Pideets” were video graphed

Photographs of Samvedana Sabha





Certificate issued by the SP Police to the victims of Naxalists. Each of the victims being questioned

The Gist of the interview of each of the Naxal victims describing their Human Rights violations is as under:

VICTIMS OF NAXAL ACTIVITIES

Sr. No.	Name & other details	Gist of say
1.	Narendra Chaudhary Pungati Gardewada, Tal Etapalli, Pst gatta Gadchiroli.	On 19th April 2012 I was kidnapped by Naxal from my home. I was taken to the forest. I was tortured for more than 4 days. They alleged that I was a Police Informer. I was assaulted by lathi and my both hands were tied behind. I am working as daily worker @ Rs. 150 per day. Police complaint was filed.
2	Visweshwarrao Narayan Madavi Ektekka, Post Jarawandi, Tal Etapalli, Gadchiroli	I am presently unemployed. On 7th March 2012 Naxal Commander Rajita Usendi along with 25 Naxals came to our home and gheraoed the house. I was tied, my eyes were covered and was taken to forest. I was tortured. My nails were cut and my leg was almost broken. I was tortured for 4 days. They were asking me as to why the villagers were taking the facility provided by the government. I was not provided any food. In the night, I observed that the sentry who was at the post was sleeping and escaped from there and since then, I cannot go to my village.
3	ManojaAdveKandoDevda, Post Kasansur, Ettapally	Presently I am working as driver. On 10th May 2010 exactly 8 years before I was kidnapped from my house by Naxal Commander Joganna and 4 Dalam Commander, Rakesh Tumreti, Ramesh Lekhami, Dani. I was taken to the jungle. I was physically tortured for 27 days under the pretext that I was informer to Police. On 7th June 2010 I was rescued. The fact is that I had come to Police recruitment. My physical and written was complete and I was also given a Chest number 5430. The incidence took place when I went back to my village. I was kidnapped. In the year 2011 when I again came for Police recruitment, I was not selected for want of Domicile. Adivasi certificate. I had lodged my complaint with Police. I also represented to Aba Ptil former Home Minister and requested for help but I did not get any help.
4	Madhukar Usendi, Kasansur	I am presently working as daily worker. I get Rs. 225 per day. On 20th May 2012 I was abducted from my house by Naxal commander Rajita Usendi. I was taken to Forest and was tortured for four hours. However, during night, before their dinner they do not kill. They kill after their dinner. While they were preparing to fasten me. My mother and father had come to the place where I was taken. They tried to explain. But the Naxals did not listen. However, I escaped from them in the night..



॥अहर्थाधिकारः॥

Sr. No.	Name & other details	Gist of say
5	Bhimrao Manu Tumretti Tadgudda, Potegaon, Gadchiroli.	Presently I am an SPO attached to SP office. My father was Police Patil in Tadguda. On 21/10/1097 my father was killed by Ashok a Naxal commander. I was 10 years old. On 14/08/2011 my brother BaburaoTumredi who was 36 years was also killed by Naxals. He used to provide food to Naxals. He used to oppose to the providing the food to Naxals. They had dispute over the issue and therefore they killed my brother. I have 32 acres of land in the village by out of fear I have to leave the village. I cannot return to my village.
6	Smt. Dipti Amal Gharami. Gatta Jambiya	I am SPO at Chamoshi Police Station. In the year 2007 my husband was killed. He was killed by Naxals. But there was no proof. A case of suicide was registered. In the month of January 2009 at about midnight the Naxals kidnaped my son Biplop . On 28th January 2009 his dead body was found on the road. In the month of September 2017 my younger son Anand 17 years was also kidnapped and he was also killed next day his dead body was found on the road. We all were targeted because they thought that we were Police informant.
7	Sonali Venka Pendam, Katrang Gatta. Tadgaon. Bhamragad	Presently pursuing my education and studying MA- Part In Political science. My elder brother RamuVenkaPendama had come for Police recruitment. on 1/1/2007 they came to know and they took my brother and he was killed in presence of the villagers. Under the circumstances, I have to leave the village and stay in Gadchiroli.
8	Janki MangruParasa, age17, Dobul, Bhamragad, Post Bhamragad	My father was killed in 2009 when I was 10 years old. He was killed in the village by Naxals. My father was taken from the house. Nobody tried to intervene. Who tried to oppose they were also threatened. I am in 9th Standard Had two years gap. Have two younger brothers.
9	ShshskalaAnkalu Gomase, Ellarum Dechlipetha, Aheri, Gadchiroli.	I am working as SPO. I was kidnapped by Naxals in the year 2011. I had appeared for police recruitment. one of my friends was a Naxal her name is Sunita Madavi who informed me that the Naxal had a meeting wherein they asked me if I can work in police why I cannot work in dalam. This was informed by Sunita and therefore under fear I left my village and came to Gadchiroli. My old mother staying alone in the village has been threatened that if I come to village I will have to stay there or they will kill my mother.
10	Rajiv Bodhsai Ekka, Murumgaon Dhanora, Gad	Presently I am unemployed. On 15th Jan 1994 my father was working in Murumgaon. We are two brothers and one sister. We had to leave the village under the fear of Naxals.
11	Manoj Devram Madavi Heti, Dhanora, Gadchiroli	I am presently working on daily wages. On 1st April 2009 My father and brother Swapnil were taken out of the house by about 250 Naxals who surrounded the village. My father and brother were killed in front of the house after taking out their eyes. Since then I am away from my house. I cannot go back to the village for fear of death..
12	Rama ChukluPungati Sevari Post Kasansur, Ettapalli. Gad	I am working on daily wages. On 31st March 1998 my father was killed by Naxals. I was very small. Thereafter, my brother was also killed on 19 April 2005 and on 4/4/2008 my uncle was also killed by Naxals. In the year 2002 again our house was attacked and all the house was ransacked and we were forced to leave the village.
13	Ramesh Doge Heddu Rengatolla, Kasansur, Tal Ettapalli Gadchiroli.	On 2/8/2016 I was working in the farm. Suddenly 6 Naxals came and they opened fire at me and I was injured by three bullets. Somehow I was saved by my brothers. I was brought to Kasansur and thereafter I was brought to Gadchiroli. I cannot go back to village.



Sr. No.	Name & other details	Gist of say
14	Rajeshwar Ganapati Ramteke, Tirapnar, Permeli, Tal Aheri, Gadchiroli	I am B Sc. From Nagpur University. I was trying for Police recruitment. My uncle Ramesh Poccha Ramteke was killed on 6 Jan 2018 at about 0000 hrs. He was taken a little distance from house. Naxal party headed by Sainath with his dalam. Initially his hand were tied and asked that he was working as Police informer. Uncle replied that he was not an informer. They did not listen and inserted the weapon in his mouth and fired. Thereafter, I had gone to the place. When the banners were exhibited in the village that Gadchiroli C-60 Party to be closed. Therefore I came back.
15	Gajanan Paikuij Tore, Gatta, Tal Ettapalli. Gadchiroli.	I am presently working on daily wages. On 6/1/2003 my brother Bandu 22 years was killed by Naxals during Jatra at Surjagad. They say tha my brother was police informer. Since then I am out of the village.
16	Santosh Sakharan Pipre, Arewasda, Bhamragad, Gadchiroli.	I am and Insurance Agent with Birla Sun Life Insurance Company. In the year 1994-95 My Uncle Dokuji Pipre who was Policepatil was killed under the suspicion that he was informer. In the year 2003 I was held by Naxal commado Tarakka. I was asked that I was also informer. Thereafter, I had to leave my village. Since then for the last 16 years I am out of village.
17	Pilluram Sherku Narote, Markegaon, Savargaon, Dhanora, Gadchiroli.	I am working on daily wages. In the year 2006 I was kidnapped by naxal commando divakar in forest. I was in forest for 2 days. thereafter I escape from them...I was taken to forest because I was police informer.
18	Ramdas Hiraram Hidami, Dholdongri, Kodgul, Korchi.	I am doing study in 2nd year of B.A. and also working on daily wages. On 13/5/2011 my uncle lalsai was kiied by naxal commander ranjita, gopi, pahadsingh. He was killed because they said that he was police informer. since then I have left the village and can not go back.
19	BalajiMaluLekami, Yerdadmi, Gattaettapalligadchiroli.	I am workingon daily wages. In the year 2009 I was kidnapped by naxalcommadogiridhar,ramku,shekhar,aitu,tarakka,birju. For 7 days I was tortured in jungle because they suspected that I was police informer. I escaped from jungle when my hands were tied behind.

OBSERVATIONS:

The team of Indian Human Rights Council consisting 1) Gajendra Domle State President, Gadchiroli, 2) Purushottam Thakre, State Observer, Gadchiroli, 3) Shashikant Mokashe Regional President, Chandrapur, 4) Mangesh Kamdi Jt. Secretary, Chandrapur. 5) Nikhil Sundarkar and 6) Dinesh Chudhari Defender, Gadchiroli visited the spot of the encounter at Tadgaon, Boriya, Kasnasur on 6th May 201 and gattepalli on 10th May 2018. During the visit the team interviewed villagers and relatives of the victims. It was revealed that:

- During the interview with Soma Madavi who was to get married at Kasnasur on 22/4/2018, it was disclosed that one day prior to the marriage i.e. on 21/4/2018 his uncle Gonglu & Smt. Tulsi Gawde had arrived from Gattepalli. Soma Madavi informed that no one else from Gattepalli was invited and no one except these two persons from Gattepalli attended the marriage.
- The distance from the place of marriage and place of Kasnasur encounter is about 4-5 kms.
- On 21/4/2018 two naxals had visited Kasnasur and collected about 35 Kg of Rice from the villagers. This indicates gathering of Naxals before the encounter and they were collecting food items from the nearby villagers.
- During the local area search, the team recovered two Sacks of Naxals from Water body, the two sacks contained the compact material usually used by the naxals while on the move. One of the sacks also contained one switch used for detonation. This post operation evidence recovered in the form of the sacks and other material therein was deposited with the Tadgaon Police post.
- The team also visited Gattepalli from the place where 5 girls and 3 boys had left the village to attend marriage at Kasnasur on 21/4/2018. Out of these 8 persons one minor girl Raso Chuku Madavi was subsequently found to be among the dead during the encounter. It is alleged that police picked up these persons from the place of marriage. However, on 29/4/2018 the parents of the following persons have lodged complaints of 'missing' at Perimili Sub Police Station and there are no reasons to disbelieve the registration of missing complaints, the details are as under:



॥अहर्थाधिकारः॥

Sr. No.	Name of the Missing person & Age	Missing complaint No.
1	Irpa Vatte Madavi. Age 23	02/2018
2	Mangesh Buklu Atram Age 26	03/2018
3	Raso Pochya Madavi Age 22	04/20184
4	Mangesh Chandu Madavi Age 19	05/2018
5	Anita Pedu Gawade Age 21	06/2018
6	Nuse Pedu Madavi Age 23	07/2018

- vi) Among the missing girls one Raso Chuku Madavi was 15 years of age. As such the mother Smt. Powari Chiku Madavi lodged a cognizable case vide C.R No. 02/2018 u/s 363 IPC and JJ Act 83, against one of the Naxal commanders namely Sainath @ DoleshMadiAtram the details are given above. There is no reason to disbelieve the registration of the case against Naxal Commander Sainath @ Dolesh Madi Atram.
- vii) One minor girl namely Bujji Karve Usendi age 17 years was killed in the encounter on 22/4/2018. Her parents identified her and took the possession of her body. Since the other person are not identified, the identification is still in progress under investigation with Forensic investigation i.e. DNA tests.
- viii) During the team visit to Gattepalli village without Police Protection and Police presence, visited the residence of Sainath @ Dolesh Madi Atram to verify the details, Sister of Sainath Ms Mari and another one of the relatives was at the residence. The brief conversation with the help of the local assistant corroborated the facts and circumstances disclosed.

Sister and relative of Sainath @ DoleshMadiAtram can be seen in the following photograph.



- ix) The team also visited the residence of the minor girl who was killed in the encounter, whose mother has filed a cognizable case vide C.RNo. 02/2018 on 29/4/2018 u/s 363 IPC and JJ Act 83, against Sainath @ DoleshMadiAtram. Sister VanjiChikuMadavi with 2-3 male members were found at the residence. The brief conversation with the help of the local assistance corroborated the facts and circumstances disclosed.



Sister of the deceased minor girl with IHRC team can be seen in the photograph



Largest Violation of Human Rights by the Naxal Activities.

- a. Violation of Child Human Rights by kidnapping children, inducing them to criminal and unlawful activities.
- b. Forcible recruitment of young children to wage war against the country.
- c. Forcible training and use of firearms such as AK-47 and other weapons by the young children.
- d. Children are deprived of their right to education by their confinements in the Naxal camps.
- e. They are forced to live in conditions with inadequate food, absence of health care facility and dignified live environments.
- f. Children are illegally transported from their respective place of residences to different locations districts and states.
- g. They are forcibly taken away from their parents and are physically and mentally tortured by the Naxals before, during and even after joining the Naxal activities. The children are compelled to continue with the illegal and unlawful activities against the state.
- h. The children are constantly under threat of life
- i. Children are deprived of the standard civilian life with fundamental freedoms.
- j. The children are sexually abused and denied legal remedy against such abuse.
- k. Children are being used as human Shields and are exposed to casualties during the mass operations.

FINDINGS

Terrorism, Naxalism and Human Right Violation

The Naxalism aims at the very destruction of human rights, democracy and the rule of law and disrespect for the constitutional measures to redress their grievances. It attacks the values that lie at the heart of the Charter of the United Nations and other international instruments: respect for human rights; the rule of law; rules governing armed conflict and the protection of civilians; tolerance among peoples and nations; and the peaceful resolution of conflict. Terrorism has a direct impact on the enjoyment of many human rights, in particular, the rights to life, liberty and physical integrity. Terrorist acts can destabilise Governments, undermine civil society, jeopardize peace and security, threaten social and economic development, and may especially negatively affect certain



॥अहर्थाधिकारः॥

groups. All of these have a direct impact on the enjoyment of fundamental human rights.

The destructive impact of terrorism on human rights and security has been recognised at the highest level of the United Nations, notably by the Security Council, the General Assembly, the former Commission on Human Rights and the new Human Rights Council.

Specifically, Member States have set out that terrorism:

- Threatens the dignity and security of human beings everywhere,
- endangers or takes innocent lives,
- creates an environment that destroys the freedom from fear of the people,
- jeopardizes fundamental freedoms, and aims at the destruction of human rights;
- Has an adverse effect on the establishment of the rule of law,
- undermines pluralistic civil society, aims at the destruction of the democratic bases of society, and destabilizes legitimately constituted Governments;
- Has links with transnational organized crime, drug trafficking, money-laundering and trafficking in arms, as well as illegal transfers of nuclear, chemical and biological materials, and is linked to the consequent commission of serious crimes such as murder, extortion, kidnapping, assault, hostage-taking and robbery;
- Has adverse consequences for the economic and social development of States, jeopardizes friendly relations among States, and has a pernicious impact on relations of cooperation among States, including cooperation for development; and
- Threatens the territorial integrity and security of States, constitutes a grave violation of the purpose and principles of the United Nations, is a threat to international peace and security, and must be suppressed as an essential element for the maintenance of international peace and security.

In India, the Naxal movement is reportedly being financed through a network of dubious activities undertaken by its leaders. In Gadchiroli and adjoining parts affected by Maoists, it is a lucrative racket by the ultras by resorting to extortion of mining contractors, transporters and owners of small and medium industries and collection of 'tendu patta'.

Interestingly, a large part of the money collected is also channelled towards the personal wealth of its leaders, whose children get the best of education, and whose families lead a life of comfort. This is so while the misled cadre toil away in the jungles in the cause of a twisted ideology.

Accountability and the human rights of victims

From a human rights perspective, support for victims and the families of the slain terrorists is of overriding concern. While efforts immediately following the events of 22 April, 2018 should be to seek support from the government machinery for rehabilitation of the families and the victims, the politically motivated unfounded and, unsubstantiated allegations by the pro-Naxal brigade to sap the moral of the C-60 and CRPF jawans would benefit none. The forces need to be given unreserved support and complimented for the restrained response from them. The weapons and the publicity material recovered from the ground would provide clinching evidence of the intention of the slain Naxals. There is no ground to disbelieve the forces when they have responded to the blind firing by the Naxals in hiding. There is increasing recognition of the need for the civil society to take fully into account the human rights of all victims of terrorism.

In the 2005 World Summit Outcome (General Assembly resolution 60/1), Member States stressed "the importance of assisting victims of terrorism and of providing them and their families with



support to cope with their loss and their grief.” Similarly, the United Nations Global Counter-Terrorism Strategy reflects the pledge by the Member States to “promote international solidarity in support of victims and foster the involvement of civil society in a global campaign against terrorism and for its condemnation.”

In addressing the needs of victims of terrorism, consideration must be given to the distinction between victims of crime, on the one hand, and victims of human rights violations, on the other. This distinction is many times blurred, and in most cases, terrorist-related acts will be addressed as criminal offences committed by individuals and a State will not, in principle, be responsible for the illegal conduct itself.

Certain provisions of the universal treaties relating to specific aspects of terrorism are also relevant to addressing the situations of victims of terrorism. According to the Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power, set out in General Assembly resolution 40/34, victims include “persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.” Importantly, the Declaration notes that an individual may be considered a victim “regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim”. The term victim may include “the immediate family or dependants of the direct victim, as well as persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.” The Declaration further outlines the minimum standards for the treatment of these victims according to several basic principles of justice. These require that victims should:

- Be treated with compassion and respect for their dignity;
- Be informed about, and have their views and concerns presented at, legal proceedings;
- Be entitled to proper assistance throughout the legal process;
- Be protected against intimidation and retaliation;
- Have their privacy protected;
- Be offered the opportunity to participate in informal mechanisms for the resolution of disputes including mediation;
- Enjoy restitution and compensation, as appropriate; and
- Receive the necessary material, medical, psychological and social assistance.

The General Assembly of the UN adopted in the year 2005, the basic principles and Guidelines for the ‘Remedy and Reparation for Victims of Gross Violations of International Human Rights Law’ and Serious Violations of International Humanitarian Law. They underscore the need for victims to be treated with humanity and respect for their dignity and human rights and emphasize that appropriate measures should be taken to ensure their safety, physical and psychological well-being and privacy, as well as those of their families. The Basic Principles and Guidelines also outline remedies to be made available to victims of violations of international human rights and humanitarian law. These include the victim’s right to equal and adequate access to justice, effective and prompt reparation for harm suffered, and access to relevant information concerning the violations and reparation mechanisms. More specifically, they outline the obligations on the state to provide reparation to victims for acts



॥अहर्थाधिकारः॥

or omissions attributed to the State constituting gross violations of international human rights law or humanitarian law. It also expects the state to establish national programmes for reparation and other assistance to victims.

OBSERVATIONS:

A. Human Rights Violation through Naxal activities.

(The Convention on the Rights of the Child was adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. It entered into force 2 September 1990, in accordance with article 49.)

RECOMMENDATIONS

The government must have a political will and a consensus that Maoist insurgency is not only a threat to the civil society and threat to the very democratic fiber of the country but more than that a serious violation of human rights by depriving the innocent tribals of the surrounding areas from developing themselves into members of the dignified free society. We reiterate that Article 30 of the Universal Declaration of the Human Rights 1948 emphasises that “Nothing in this declaration may be interpreted as implying for state, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the right & freedom set forth herein.” therefore, those (terrorists) who have adopted violent means and deprived others of their human rights have lost their say as Human being by way of adopting inhuman attitude and their right to claim protection under the laws of the civilized society. And therefore, the Human Rights of the victims, law-abiding citizens, public servant performing their official duties and various law enforcement members, have all the time priority over the Human Rights of terrorists and Naxals. The government will have to address this serious menace from multiple angles. There may be difference of opinion about the use of force. However, use of force against members of civil society and use of force against armed militants, terrorist, Naxals and where the security and integrity of the nations is concerned, there should not be any doubt that these unlawful activities should be curbed with maximum use of force.

1. The National Human Rights Commission, New Delhi may initiate the process of implementation of a Separate Programme for the Protection of Human Rights of Victims on priority, for the members of the civil society who are the Victims of Naxal actions including all the Public Servants, Police personnel who are killed while performing their duties and their relatives. Roles and responsibilities may be redefined in accordance with the provisions of the related national and international laws related to the Protection of Human Rights of the Victims.
2. All the activities of Naxals and its political outfits and the NGOs supporting the Naxal movement be declared as violation of Human Rights and be treated according to the law.
3. All Naxal killings be Suo-motto taken up by National Human Rights Commission or the respective State Human Rights Commission and be dealt with under the Human Rights Law in India.
4. No cognizance be taken on the representations made by banned organisations or front organisations of such banned Political parties, which are Anti-Indian and Anti-Indian Constitution, driven by the foreign illegal ideology in India.
5. No arbitrary action on the basis of the representations made by Naxal supporter organisations or individuals before assessing and calling the factual position from the respective state against the Lawfully carried out Anti Naxal operations resulting in killings of Naxals in Gadchiroli.
6. A separate Wing to protect, to monitor, promote and pro-active intervention in the issues related



to the Human Rights of the victims of Naxal Activities under the provisions New Law Maharashtra Witness Protection and Security Act 2017, be formed at the National Human Rights Commission and the respective State Human Rights Commissions.

7. The Government of India, National Human Rights Commission with the help of State Governments and the state Human Rights Commissions must initiate process of planning, and execution of Basic Policy of the Returnees in respect of the citizens in the Naxal affected area who have been displaced due to Naxal attacks and fear for Life. Many of the displaces civilians have their own agricultural land dwelling houses in their respective villages.
8. There is lack of coordination in the number of agencies who are, many times, found working in isolation. There is a need for coordination among the state agencies and the central agencies, besides improving the inter-state coordination to stop the movement of free movement of the Maoists from Andhra Pradesh to Maharashtra to Chattisgarh. one state to other, after getting a push.
9. There is a need to have well calibrated intelligence sharing and policing among the states and central agencies like paramilitary forces.
10. As a proactive Preventive Program, the services of the Civil Aviation Department of Government of India may be extensively made available to the Law enforcing agencies such as Local Police force, C-60, CRPF etc to use Helicopters for Preventive Air Patrolling as against the restricted used for administrative use.
11. The use of Helicopters may be allowed prior, during and after the major anti-Naxal operations. Protection of life & Property should be the Priority.
12. The officers and police working on the insurgency need to be provided intensive training at Maharashtra Police Academy (MPA) Nashik, Detective Training Centres, and various Police Training Schools or every affected state Police Training Centres. Every officer and men must be provided with specific training taking into consideration needs of Naxal or terrorist areas, prior to their postings because the general training at the Induction Training Programme is not sufficient to equip these officers to cope with the extremely hostile atmosphere of the dense forests and Maoists influence.
13. All the field level employees working in various government departments such as revenue, forest, PWD, Electricity, health, child & women welfare, village administration, local self-government including police department will have to be sensitized from beat constables to forest guards and encouraged to have ongoing interface with the locals, the tribals and villagers in the areas surrounding forests. This will help in strengthening intelligence system at grass-roots. "To win this battle, we require strong support of the local public and their inputs," said Katoch, a former director, Centre for Land Warfare.
14. There can't be a single policy being dictated from Delhi for all the Maoist-affected districts. There should be different policy for different districts depending on the requirements of the locals and based on their priorities," he remarked.
15. State governments have to ensure proper implementation of Forest Act and Tribal Rights Act.
16. Maoists sympathisers in think tanks, NGOs, academia and even in the government working out of metropolis need to be identified. Their agenda works on foreign funds. Moreover, state police have to gear up as law and order is a state subject. Blaming Modi government won't help. The Centre has released funds for the districts affected by Maoist insurgency. The states have to ensure honest implementation of Central schemes, so that the funds reach out to the beneficiaries," added Katoch.
17. The Gadchiroli police deserve to be commended for using local intelligence inputs and taking



॥अहर्थाधिकारः॥

speedy action in the one of the high risk operations in the Maoist heartland. They also need to be commended for the fact that there was no casualty of the security personnel nor was any innocent villager affected in any way. The operation led to the elimination of two dreaded senior and experienced Maoists commanders Srinu and Sainath who were operating in the area for more than 15 years.

It can be said that C60 has neutralised the top Maoist leadership in Gadchiroli. Our team members had an extensive discussion with the officials in Chamori, Gattepalli, Kasnasur, We have witnessed a sizable chunk of the weapons recovered from the militants including AK 47.

The anti-Maoist operations by Gadchiroli police and its C-60 commando force succeeded in neutralising the heavy combative force of the ultras because they took an aggressive stand in locating the movement of the armed Maoists. They have developed excellent contacts at the ground level and are backed by modern equipment. However, they have robust connectivity at local-level, act swiftly on intelligence inputs and follow standard operating procedures.

CONCLUSION

In conclusion, we can only say that the facade of human rights violations of those who have blatantly violated the human rights should no more be acceptable in our country. Article 30 of the UN Declaration of human rights 1948 has amply made it clear in no uncertain terms: Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

We have also observed that the activists of the Human Rights who enjoy all the benefits of living in the civil society and yet covertly and overtly support the banned organizations like CPI(M) should be brought under the scanner to see how their activities are guided and funded by the foreign agencies.

The anti naxal forces including C-60 and CRPF 9 are doing a commendable job by using a restrained force and yet neutralising the armed insurgents. Their morale should not be allowed to be undermined by the protests by the supporters and activists of the pro naxal anti national bodies under the fake garb of human rights violation.



॥अहर्थाधिकारः॥



॥अहार्याधिकारः॥

INDIAN HUMAN RIGHTS COUNCIL, PUNE

No.1, Vishwakamal Complex, GP-65, Thermax Chowk, Chinchwad, Pune-411019, Maharashtra, India

e-mail : chintan.ihr@vishwamanavaadhikar.org • chintan1955@yahoo.com

Website: vishwamanavaadhikar.org