PRELIMINARY REPORT

Just a little Collateral Damage......?

Report of an All India Fact Finding Team into incidents of encounters in the month of October 2010 in Chhattisgarh.

10th December 2010, Human Rights Day
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The Overall Situation in Chhattisgarh

The districts of the erstwhile Bastar division in Southern Chhattisgarh are now the arena of civil war. This is the region where Operation Green Hunt, as it is referred to by the police and security forces in Chhattisgarh despite denials by the Union Home Minister, is being carried out with the greatest ferocity. Almost every day there are reports of ambushes and land mine blasts by Naxalites, killing security forces; and reports of “search operations” and “area domination” exercises by security forces with a considerable number of Naxalites being killed in encounters and also a very large number of arrests. SPOs and police informers who are being recruited in the hundreds are being targeted by Naxalites.

While the Chhattisgarh PUCL has repeatedly expressed its concern at the situation, what is of greatest concern to civil liberties activists are the complaints of thousands of adivasis fleeing these areas, repeated reports of civilians or non-combatants being killed, of ordinary villagers being picked up and jailed as Naxalites, of ration shops and anganwadis being withdrawn from so-called Naxal strongholds, and of lack of access to medical help resulting in cholera and malaria epidemics. This is a grave humanitarian crisis.

There has been a denial of physical access to the entire Bastar division to concerned citizens from other parts of Chhattisgarh and India, despite the fact that this region has not yet been declared a “Disturbed Area”. This denial has been systematic – whether to an All India Women’s Team who were trying to meet women who had filed complaints of rape against SPOs (November 2009); or to Medha Patkar, Sandeep Pandey and other members of the NAPM who were going to join Himanshu Kumar for a public hearing in Dantewada (to which the Union Home Minister had been invited); or to a team of Gandhians who were on a peace march (May 2010) including Shri Banwarilal Sharma and Swami Agnivesh who subsequently made efforts for talks with the Maoists. The modus operandi of such denial has been through the mobilization of SPOs and inmates of Salwa Judum camps who have organized demonstrations and brick batted the teams. Individual researchers, lawyers, film makers and journalists have been detained, intimidated or otherwise “persuaded” to leave Dantewada.

On the other hand, social activists who have roots in Bastar dating back several decades, like Himanshu Kumar of the Vanvasi Chetana Ashram, have been hounded out for expressing their dissent. Himanshuji’s Ashram was demolished and two VCA activists – Koparam Kunjam and Suknath Oyami, active in rehabilitating the adivasis of 10-15 villages who had fled to Andhra Pradesh in the early days of the Salwa Judum, have been arrested under the draconian Chhattisgarh Special Public Safety Act (henceforth CSPSA). There has been a systematic attack on the activists of the CPI (Communist Party of India) which has a significant presence in Bastar, and several of them including elected representatives of the Janpad Panchayat - one of them disabled - and office-holders of the Adivasi Mahasabha have also been arrested under the CSPSA on false charges of supporting Naxals. One of the most shocking arrests has been the recent...
one of Kartam Joga, leader of the Adivasi Mahasabha, who had petitioned the Supreme Court against severe and widespread human rights violations in Konta block during the Salwa Judum campaign, and whose petition is still pending. Prakash Korram of the Ekta Parishad - a Gandhian NGO established in Kanker for several decades - was also arrested under the CSPSA and released on bail after the police failed to file a charge sheet. This targeting of social and political activists working peacefully and legally in the Bastar division has seen strong protests through mass demonstrations of the Adivasi Mahasabha in Jagdalpur and Dantewada in November 2010 demanding the removal of IG (Naxal Operations) Mr. Kalluri.

Thus, as regards happenings in Bastar, the outside world has become totally dependent on media reports: these in turn are largely based on police handouts as independent verification of police claims has become virtually impossible. Unfortunately the response of the judiciary as also the State Human Rights Commission has not been prompt or unequivocal; resulting in petitions on fake encounters lying pending for months, if not years. A request for an enquiry into a list of 135 villagers alleged to have been killed during Operation Green Hunt between January 2009 and April 2010 made by the Chhattisgarh PUCL has not received any response from the National Human Rights Commission so far.

Yet despite the ongoing anti-Naxal operations, the Chhattisgarh Government claims that Naxalite activities, rather than declining, are spreading to the districts of Dhamtari and Mahasamund in the east, to Rajnandgaon towards the west, and Jashpur in the north of the State, and there have been reports in the media to this effect.

In the month of October 2010 alone, several encounters were reported in the media, some resulting in civilian casualties, which took place in districts outside the Bastar region. These occurred in the districts of Mahasamund, Rajnandgaon and Durg in Chhattisgarh and on the Rajnandgaon-Gadchiroli border in Maharashtra. The incident in district Durg was in an industrial township. In all these incidents conflicting accounts emerged from the police and the villagers/ local persons: for this reason the Chhattisgarh PUCL considered it necessary to visit these areas and conduct an independent enquiry.

Thus an All India Fact Finding Team consisting of 11 persons belonging to the Chhattisgarh PUCL; Campaign for Justice and Peace, Chennai; PUCL Karnataka (Bangalore Chapter); People’s Union for Democratic Rights, Delhi; and the Human Rights Law Network was constituted. The team, working in two groups, carried out its investigation between 10th and 13th November 2010, and what follows is its preliminary report.
Report of the Incident of 9-10-2010 in Village Ledgidipa, district Mahasamund

Background: The Mahasamund district of Chhattisgarh in the eastern part of the state borders Orissa. It is primarily an agricultural region with little or no reported Naxal activity until very recent times.

On 9th October, 2010, Saturday, various evening newspapers carried reports of a fierce encounter that happened on the same day, between the Naxals and the state police force at Padakipali, near the Orissa border, in which it was claimed that 8 Naxals were killed and 2 police injured. Later, it was admitted that 2 of the persons killed were actually villagers of Ledgidipa, who were said to have been caught in the crossfire. Inspector General of Police RK Vij told PTI that the two villagers were used as a shield by the Maoists in the gunfight. Reports also carried news of a large quantity of arms and ammunitions having been recovered after the encounter, including a “huge cache of explosives”. The entire episode was hailed as a great achievement by Director General of Police (DGP), Vishwa Ranjan.

Purpose of the Investigation: All wars, internal or external, are fought for control of territory, resources and power. And yet, all wars must necessarily be constrained to consciously control the so called ‘collateral’ damages – civilians whose rights to life and livelihood, their private and shared resources, is severely endangered in all cases of armed conflict in areas of human habitation.

The incident of Naxal encounter in Mahasamund district had occurred in a region with no prior history of significant Maoist activity, or associated presence of State security forces on a large scale, although one media report carried news of a “high level meeting” on the 7th of October in view of Maoists making inroads into Mahasamund district.

Two villagers had died in this encounter. Confusing and contradictory reports were presented in the media on the circumstances surrounding these deaths - from the initial allegations of the villagers being Naxals, to their being unfortunate victims caught in crossfire, to their being used as human shields by the alleged Maoists. By and large, most of the media reported the official version of what occurred during the encounter. However, around 12th October, different reports began to appear in which the responsibility of civilian death began to be laid on the security personnel.
as having entered a village home and shot at unarmed villagers, killing them.  

The State responded to these deaths with unusual promptness. A high level cabinet meeting appears to have been called immediately, followed by an announcement of compensation of Rs. 5 lakh to the families of the victims within two days of the incident, besides assuring a ‘Baal police’ position for the son of one of victims. State Home Minister Nankiram Kanwar and Agriculture and Labour Minister Chandra Shekhar Sahu rushed to the area, to pay a condolence visit to the aggrieved family members. The State also announced a magisterial enquiry into the entire episode.

We decided to carry out an independent investigation of the incident by visiting the village Ledgidipa, where the villagers had died in the encounter of 9th October 2010, and also village Reekhadadar - the site where the alleged Maoists had first made their appearance, and meeting with the villagers there. We also intended to meet police officials at Sankra, and the SP, DSP, Collector and ADM at Mahasamund as part of our investigation into the status of their enquiry and the compensation to the families.

**Investigation on 10th and 11th November 2010:**

Our fact finding team of six persons set off from Raipur on the morning of 10th November. The head quarters of Block Pithoura is at a distance of about 70 kilometres from Raipur, and the villages were on a road branching off from the hamlet of Sankra under whose police station these villages fall. Our route took us through a sparse jungle of Tendu, Mahua, Teak, Sal and Semul trees after the village Bade Loram. By about 2:45pm, the skies became overcast and our vehicle got stuck in a mud ditch on the forest road. Two of our team members decided to go in search for help while the rest of us continued our effort to free the vehicle. It was already raining in a steady drizzle. About this time we saw a villager approach us and he also began helping us with the vehicle. When we shared with him the purpose of our visit, he said that he was from a nearby village (Chote Loram) and that he had witnessed the entire encounter between the police and the ‘atankwadis’. The following was his narrative:

*He was wandering around midday, looking for his lost bullock, when he heard rounds of firing (as many as 1000 to 2000) and 10-12 Naxals running ahead. Behind them was a large battalion in formation, shoulder to shoulder who were doing most of the firing. The Naxals themselves might have shot once or twice. He said he was afraid, and remained crouched and hidden in grasses during the entire operation. He further added that this was the first time he had ever seen Naxals, and to his knowledge they had never been seen before in the region.*
At 3:45pm our two team members arrived with a tractor, and we were able to proceed. We realized then that we had been at only a very short, in fact walking distance (half a km), from Ledgidipa – our destination for the day.

We easily located the home of Gautam Patel, one of the victims of the ‘encounter’. Since the news of our visit spread quickly in the village, the family members were waiting for us outside. Even as we entered the home, we were shown bullet marks near and on the front door of the house. We gathered in a main room facing the rear aangan (enclosed courtyard) with the members of the family that included Himadri (Gautam’s widow), her father and son, Gautam’s two brothers (one older and the other being the youngest) as well as the wives of all the brothers. Of these family members, Gautam’s widow, the youngest brother and his wife, and a nephew had been witness to the killings. This was the location where the so-called ‘encounter’ between security personnel and the villagers had occurred. (Please refer to Appendix I and II which are the Schematic Maps of the encounter site and the kitchen of the Patel family)

The incident as narrated by the family of Gautam Patel:

It was around noon, ten to twelve members from the household, including the eldest brother, his son, younger brother, and Dau Konda – a deaf and mute helper of Gautam Patel, were working in the coriander fields behind their homes along with some hired help, when they started hearing rounds of firing. First they thought that these were fire crackers celebrating the birth of a son nearby.

However, when the firing intensified and moved closer, and they realized that they were hearing gunshots. In fear they started running towards their homes in the village – about 200 m away. A nephew who was bringing family members a meal in the fields dropped the meal and ran towards the houses. Dau Konda ran behind the others, gesturing to the security personnel behind him that he could not speak…and continued to run towards his employer’s home. Meanwhile, all the villagers including the members of this family rushed into their houses and latched their doors from inside.

Dau tried to enter the eldest brother’s house from the front, he found it locked and ran to the back entering from the rear aangan. There, he leapt across the wooden fences that separate the houses of the other brothers from that of his employer, Gautam Patel’s house.

Gautam was eating his lunch in the aangan, being served by his wife Himadri. They saw Dau run inside the kitchen in a state of fear, and a huge commotion and sounds of firing from outside. Gautam reacted in fear by following Dau into the dark kitchen and hiding underneath the kitchen shelf.

Meanwhile 50-60 police had entered the home following Dau. They accosted Uttam, the youngest brother, and asked him where they were hiding the Naxalites. Uttam pleaded with them that there were no Naxals inside the house; only Gautam, his brother, and their servant Dau, who was also deaf and mute and other family members. The son of the eldest brother also had a gun held to his head and was asked similar questions. Despite Himadri’s
pleading and crying that there were no Naxals in their home, only her husband and Dau, four of the security personnel forcibly entered the kitchen and started shooting in the dark, killing both Gautam and Dau. The firing hurt one of their own personnel, wounding him in the arm.

Only when they dragged the bodies of Gautam and Dau outside, did they realize that they had shot innocent villagers. In remorse, one of them shouted out “Oh Durga maiyya, I have killed an innocent man!” touching his gun several times to his forehead. The distraught family wailed and wept that there was no point in repenting, had they not seen that the victims were unarmed, in ordinary clothes of villagers?? They should have heeded the pleading of the wife, brother, sister-in-law, nephew and verified before blindly shooting. The distraught younger brother told us

“We expect the State to protect us. But if the State itself is engaged in killings of the innocent, then who can be expected to protect us?” (Please refer to Appendix III which is a photograph of the Patel kitchen.)

Following this encounter, 200-300 security personnel surrounded the house. The security force had even entered the eldest brother’s home, and fired several rounds there. The family had heard one of the force members consult with his superiors over the wireless whether they should throw a hand grenade inside, but it appears that they were asked to exercise restraint since there could be civilians inside.

Later, the security personnel dragged in the bodies of 5 Naxals killed at another site, and loaded these on a village tractor along with corpses of Gautam and Dau. They told the other members of the security force and the gathered villagers that Gautam and Dau had been killed by Naxals, but the family loudly refuted this, pointing to the particular force members who had entered the kitchen and killed Gautam and Dau. The bodies were then transported to the Sankra police station.

The family members followed the tractor to Sankra and tried in vain to file an FIR but were refused; their letter of complaint was accepted on the next day. Gautam’s body was returned a day after the post mortem. A nephew, Punnochand, contacted the press two days later when the police refused to hear the family’s version of the story. The story was carried by various TV channels and even the national media.

Two members of the security force had been injured in this entire episode. One of them was injured on his arm inside the kitchen of Gautam Patel in the firing by their own guns. Another, who might have been injured elsewhere in encounter with Naxals, had a bullet wound in his thigh. A pair of bloodstained army “fatigues” was found by villagers outside the family home. We were shown this garment.

**Our Observations:**

Grief was palpable in the house of the deceased Gautam Patel. We saw the kitchen walls riddled with bullet holes. Seven cartridges were recovered from
the kitchen. We retraced the route from their home to the coriander fields where the shooting was first heard. We saw the fields in disarray. We were told that all their labour had left in fear since the shooting incident, and there was no one to work in their fields. We also visited the eldest brother’s home and found several bullet marks on the walls of his home too, when the security force had chased Dau from the back entrance. It is pertinent that none of the family members had actually seen any Naxals alive.

No government officials had visited the family as part of the magisterial enquiry. Even the condolences made by the ministers were during a “Jan Samasya Nivaran Shivir” (Grievance Redressal Camp) at village Padakipali, to which the family members were called. The DSP, Tehsildar and TI (Town Inspector or Station House Officer) visited the family to discuss the issue of compensation. On later visits, the police came in civilian clothes.

Of the 5 lakhs promised to the victims’ family, they had been paid Rs. 5000 for transporting the dead, Rs. 21,000 for the last rites of the deceased, and Rs. 5000 for a bill that the family owed to the local provision store.

Dau Konda’s father, who lives across the border in Orissa has been paid only a sum of Rs. 5000; the family couldn’t tell us if the father had been given any more sums of money, since he had left by the time they got their additional compensation.

The family has no idea how the rest of the compensation that has been announced will reach them, nor do they know what procedure they have to follow with regard to the Government job promised to Tej Kumar, the son of the deceased Gautam Patel. Regarding their request for the post-mortem report, they have been informed that until a ‘chalan’ (charge sheet) was filed, this could not be released to them. Interestingly however, when the team members demanded a copy of the post mortem report from the TI Sankra, he told them that he could not supply a copy of the post mortem report since Himadri Patel has given them an application not to supply the copy of the report to anyone but herself!

We went to meet Dayanidhi Patel - Panch of the village. The Sarpanch belongs to another village, and has not visited since the incident. The Panch stated that he was at home when the firing started around noon, and had hid inside. At around 1pm, he went to check on the dead Naxals and said he saw 200-300 ‘faujis’ (security personnel), but saw no other Naxals. He also confirmed that so far the Collector, SP, Kotwal and Sarpanch have not visited the village. The Tehsildaar has visited to get some papers related to compensation filled.

Visits to Reekhadadar, Sankra, Mahasamund
According to media reports and our background queries, Maoists had entered the region from the Orissa side, and had even put up a cultural program at Reekhadadar. There is an established camp of the CRPF at Padakipali and it appears that soon after the Maoists left Reekhadadar they were encountered by the STF from Padakipali. The report of this incident had been carried immediately by the Dainik Bhaskar with a detailed account of the episode including a photograph of alleged Maoist shaking hands with young children. The media also reported an interview given by a member of the Maoist group just prior to the encounter.

We set off for Reekhadadar on the morning of 11th November. Reekhadadar is a visibly Odiya village in terms of clothing of the villagers and the language spoken. Initially we found no villagers ready to talk to us about the day of the episode or the incidents directly preceding it. They had heard about the ‘encounter’ only on late afternoon of 9th October. But with a little more probing, this is what the villagers reluctantly shared.

Early that morning 60-70 ‘atankwadis’ in uniform, carrying rifles and bags had entered the village. This was the first time that anyone from the village had seen Naxals/Maoists in the area. They were coming from Dharampura and four members of the group spoke Odiya. They first met some village children near the water pump, a little on the outskirts of the village, and asked them to fetch them some food to eat. When villagers provided ‘murra’ (puffed rice) they offered to pay for it, but the villagers refused. The villagers shared that no one felt any sense of fear or discomfort at the presence of this group in their village. They were well-behaved, chatted and shook hands with children of the village. The group camped outside the village near the fields and in visible distance of the forest.

We were taken to the area where the group had camped, by the husband of a lady Panch of the village. Once outside the village, we were joined by more villagers who were now increasingly forthcoming. They said that the visitors had introduced themselves as ‘Mav-vadis’ (Maoists). Everyone in the group were dressed in dark uniforms and armed with rifles, except one who was in ordinary dress. They asked the villagers to join them for a cultural program. The program started between 9-10am. About 10-20 people performed and the entire basti of almost 150 people attended this program of singing and speeches by the group. They condemned various acts of Raman Singh’s government, including the burning of eight villages. They were aware of the CM’s proposed visit to Pithoura on 16th Oct and also were aware that the security forces were waiting for them about 2 km away. Villagers said that the Maoists had already crossed path with security forces at Jagdishpur, but at that time the number of commandos was small - only about 25 and so they did not attack the Maoists. The program of singing and speeches appears to have lasted for about half an hour.

Following this some media people appeared on the site, at the village school nearby. Some members of the Maoist team beckoned to the media to join them in the jungle for interview. Apparently Manoj Mishra from Sankra
interviewed a Maoist member called Pradeep. After this interview someone amongst them sounded warning signals on a whistle, and the whole group dispersed and started running towards the forest. We were told that this forest belt was contiguous with that we had seen at Ledgidipa from where the security forces had emerged. Villagers of Reekhadadar got news of encounter killings of Maoists and also the two villagers around 3-4pm in the evening. They acknowledged fear of visiting Ledgidipa where the villagers had been killed.

**At Sankra:**

We met the Station House Office (normally referred to as ‘Town Inspector’ or TI in Chhattisgarh) of Police Station Sankra - PL Nautiyal. He had recently been appointed to this post and was in the process of taking over charge when the incident occurred. He categorically stated that the two ‘gramins’ (villagers) had been killed by Naxals. He said the force had killed a total of 7 Naxals including 3 girls and 4 boys. The investigation was being carried out by the DSP, DK Sharma. According to him Naxalite activities had been going on for 1-2 months (which he later changed to 5-6 months) in the region. The Chhattisgarh and Orissa police were cooperating in the matter of hunting down Naxals in the region. Also, he claimed that unlike Bastar, the police had full cooperation of the villagers, who were not sympathetic to Maoists. He informed us that the District Collector was monitoring the compensation package, that they were seeking certain documents to proceed with the magisterial enquiry and the investigation was going on. On enquiring about the status of an RTI application filed by the PUCL, Chhattisgarh, to get a copy of the FIR and the post mortem reports of the two dead villagers, he informed us that since the case was under investigation, the FIR could not be shared at the moment and this would be communicated directly to PUCL-Chhattisgarh. He added further that the family of the victims had made a written request that the police not divulge the contents of the post-mortem report to anyone except them!

Right across the police thana we saw a camp of armed forces, in the Anajmandi of Sankra. In conversation with the two youngsters who were guarding this open-air, middle of the town campsite, we discovered that this was the 2nd Battalion of Chhattisgarh Armed Force who had covered the STF during the Reekhadadar- Ledgidipa encounter.

**At Mahasamund:**

We spent the next day trying to meet the Superintendent of Police Ankit Garg, DSP DK Sharma and Collector (Ms) D. Alarmelmangai. However, none of them were available at Mahasamund on the day of our visit. We could only meet Shri Bipin Manjhi, Additional Collector, in charge of the magisterial enquiry, who did not share any information with us, claiming that he knew only as much as we did from media reports!

**Our Findings:**
After detailed investigation including first hand eyewitness accounts the teams came to the following conclusions:

- Special Task Force (STF) carried out the primary attack on the Maoist team seen at Reekhadadar with the second battalion of Chhattisgarh Armed Forces providing cover. Around 60-70 Maoists were first seen and between 200-300 security personnel were involved in the encounter with them.

- There was no cross fire from the civilian victim’s home or involving his house, nor were the two villagers used as human shields by the Maoists. The residents were engaged in routine household work at the time when the security force entered and killed the two villagers. The ‘encounter’ of the villagers was by the security personnel, and the eye witnesses of the bereaved family are very firm and open about this.

- The victims could not have been confused with the alleged Maoists who were in uniform and carrying guns, several of whom had already been killed by the security personnel in forest encounters. In contrast the victims were dressed in civilian clothes and were unarmed and Dau Konda was an apparently unarmed person who was being chased across fields. The security forces did not face any threat of any danger from the civilian victims at any time. The killings were carried out without any provocation on completely unarmed civilians who were cowering from fear and fleeing the forces.

- The TI at Sankra told us that the police enquiry had concluded that the two villagers were killed by Naxalites. Not only does the TI’s version contradict the family/eyewitness account of the killing of Gautam and Dau Konda, but the conclusion has been reached without any effort at any enquiry from the victims’ families or other villagers.

- Only a small fraction of the announced government’s compensation has reached the victims’ families. The administration has not divulged any information – either to the family, or the village representatives, or to us — about how the remaining amounts are proposed to be disbursed.

- The attitude of the authorities towards the family of Gautam Patel after the incident is very disturbing. The family was actively discouraged from filing a complaint or registering their version of the incident at the police station. No elected representative, not even the Sarpanch, has visited the village where this ghastly incident has occurred.

- The process of magisterial enquiry into the incident, though announced promptly after the incident on 9th October was yet to commence when the team met the officers on 11th of November and both the local police and the ADM’s office seemed to be more interested in a cover-up to evade direct responsibility of the security force in the incident.
Villagers in both Reekhadadar and Ledgidipa now live in a state of fear and Ledgidipa is virtually ostracized since no outsider is willing to visit there. In fact the day after the team returned having met the TI Sankra, a newspaper carried a strange report of “8 uniformed Naxalites having stayed the night at Ledgidipa!”

**II**

**Report into the incident of 9-10-2010 at Village Kade, Thana Manpur, Tehsil Manpur, district Rajnandgaon.**

**Background:**

Village Kade is a small hamlet under Police Station Manpur in Tehsil Manpur, district Rajnandgaon, a few kilometres from the Maharashtra border, which is accessible by road. It has about 36 families evenly divided between Gonds and Oraons, though the latter mostly from Jashpur have settled comparatively recently say a generation ago: there are some palpable tensions on land issues between them. The village is not far from Village Koka which borders Tehsil Dhanora, district Gadchiroli of Maharashtra and where joint camp of the ITBP and CRPF has been set up.

The team decided to visit this village on the basis of newspaper reports that a young girl had been injured in crossfire between Naxalites and security forces on 9th October while she was bathing at a village pond, and that she had been admitted to hospital. A day or two later there were reports quoting a Sarpanch of the Panchayat to which Kade belongs, to the effect that there had been no crossfire and the girl had been shot at by the Security forces.

It is significant that people in nearby villages did not have proper information about the condition of the injured girl and there was a rumour that she had died in hospital. We were relieved to discover that she was not only alive, but on 9th November she had returned to the village having been discharged from the Bhilai Steel Plant Hospital. We spoke to her personally a day later, on the 10th.

**Investigation into the incident:**

The incident took place the day after a landmine blast had occurred close to Sawargaon, killing two jawans. It appears that whenever there is such an attack, the security forces carry out operations in the nearby villages, as in the present case. (Please refer to Appendix IV which shows a schematic map of the site of the Kade and Sawargaon incidents.)

At about 8.30 a.m. when Manorama and Vijay Kujur along with their 3 young children (including an infant) were going to their field adjoining the main road to harvest paddy, a large posse of jawans, more than 50, came
there. On one side of the paddy field is the village at a distance of 200 meters from the field and on the other side is forest. The jawans had mistaken a red sari tied as a scarecrow in a field on the opposite side of the main road for a Naxalite banner. They caught hold of Vijay Kujur and began beating him up mercilessly accusing him of hiding Naxalites in their field. Then they dragged him to the road and after beating him some more, told him to lie down because there was going to be firing.

Two other men, Patiram Bhuarya and Kamlesh Bhuarya (father and son), were driving a cartload of grain on the road. They were made to get down from the cart and badly beaten up. Then all three men were taken to the ITBP camp. The Bhuaryas’ grain subsequently lay on the road for 3 days, since no one dared to take it to their home.

Meanwhile Manorama was told to crouch behind a large tree with her three children keeping her face to the tree. She was told that firing was going on, but she categorically stated that it was only the jawans, spread out in a line, who were firing at random in the direction of the village: the bullets were flying past her at close range. She testified that there were no Naxalites visible and there was no firing from any other direction.

Manorama also categorically states that she pleaded and shouted to the jawans, telling them children of the village including Jayanti Ekka d/o Dayanand Ekka, her 12 year old niece (a student of Class Vth in the village primary school) were in the direction where they were firing and in their line of fire. Jayanti was standing on a bund along with the other children a little younger than her. The bund encloses a small stop-dam next to Niral Lakda’s field where water is collected people of the village often bathe there. The children had gone there to bathe before going to school. It is clear that from where the jawans were standing they could have seen the children and identified them as such. But they continued firing.

The smaller children started running in panic; Jayanti paused to collect her soap and clothes etc. when a bullet struck her, going through the front side of the pelvic region and coming out from the back damaging her urinogenital system and her uterus possibly permanently. She fell down; after a while she regained consciousness. By this time the firing had stopped and the other children came back to help her home.

The jawans went on leaving Jayanti, Manorama and the men where they were. Everybody went home. The Patel of the village Shri Chainsay sent two villagers to the Camp to ask for treatment of the injured child. When they did not return till about 7 p.m., the entire village – Gonds and Oraons, women and men - went to the Camp. Only then did the Camp people take the child to the government dispensary at Mohla. The Sarpanch Mansingh accompanied the injured child and her family members: the police and jawans accompanying them kept an eagle eye on him to check that he did not tell anyone about the incident.
Jayanti was subsequently sent to the Bhilai Steel Plant Hospital where she was apparently operated upon three times. She was finally released on 9\textsuperscript{th} November 2010 and told to come again for further treatment after 3 months. All expenses seem to have been borne by the police/ government, but what exactly was the explanation given by them for Jayanti’s injuries, we were not able to find out.

When the women members of the team examined Jayanti’s wounds we were shocked. Part of her intestine was still protruding from an open wound and stool was oozing from it. No catheter had been introduced. Jayanti had not been given any discharge papers describing the treatment she had undergone or the medication she was being administered. The wound was not even bandaged and the child had tied an ordinary gamcha around her waist to cover it. Such a serious open wound left open and unbandaged with no provision for the discharge was certain to get infected: at the very least it would could cause serious permanent damage, if not death. (Please refer to Appendix V – photographs of wounds sustained by Jayanti Ekka and Manorama Kujur at the site of the incident.)

The incident has been so traumatic for Manorama Kujur that she has been unable to work in her field (which is where the incident took place) since then. The unharvested crop was still there when we visited the site almost a month later.

**An atmosphere of fear and insecurity:**

We were told by the villagers that while Naxals had occasionally been seen in the forests around their village in the past, they had never come to the area since the ITBP/CRPF Camp was set up at Koka. They are not aware of any Naxal movement thereabouts.

They said that the ITBP is preventing the villagers from leaving their houses in the early morning or late evening/night. This has seriously affected agricultural operations the more so since their fields are in forest clearings some distance from the village. The fear of and alienation from the forces, which come to the village on regular search operations is palpable. Villagers testified under condition of anonymity that all festivals, wedding celebrations and communal singing and dancing which had been an integral part of tribal life have become impossible. Nowadays it has become a habit for villagers lock their houses at night and sleep together in small groups for mutual security. The villagers were also unhappy at the cutting of a large number of very old trees on either side of the approach road by the security forces presumably to aid visibility during operations.

They said that the couple of private doctors who were at Manpur (one of them was referred to as the “Bengali doctor” Vikas of Teregaon) had been taken away/asked to go away by the ITBP since they accused them of “treating Naxalites”. As a result the villagers have no immediate access to health care and in emergencies must go to the ITBP Camp to ask for help.
The village has a small single room primary school outside which the teachers were sitting when we visited and an anganwadi centre which was locked. Its inhabitants are poor though there are one or two better off families like that of a retired forest guard.

There was another shocking incident connected with him which was related to us. We were told that on 17th October he, his wife and his sister in law were all murdered at night. A family in a neighbouring hamlet has been accused of the murders. We questioned the villagers closely, including the wife of the man who is being accused as to whether this might be a killing by Naxalites. We were told that the murders had been committed for private reasons as a result of an unspecified vendetta. Some people felt that it was likely that a former driver of the guard’s vehicle who had felt himself cheated was behind the murder and that he and other persons of his village had bribed the police not to take action. It speaks for the atmosphere of fear and uncertainty that villagers here are living in, and also their alienation from the security forces that are ostensibly deployed for their protection, that they do not feel any confidence that these security forces can either ensure their protection or obtain justice for them. One of the villagers told us that when this incident was reported in the media it was reported as a killing by Naxalites, but we were unable to confirm this.

Another phenomenon reported to us, again on condition of anonymity was that several adivasis – Sarpanches or Panches or articulate and outspoken individuals in different villages have been taken into detention by the security forces and their whereabouts are unknown. Some of them are informally detained for long periods in the camp possibly to act as guides or informers, some have become SPOs. Others who were candidates in the Panchayat elections, were only released after they won. There were suggestions that they had been detained to prevent them from winning but people voted for them anyway. Some of the names mentioned were of the ex-Sarpanch of Seetagaon, Brijlal – the village head of Nanghutola, Shyam Singh – brother of the Patel of Kanheli, and Karuram the Sarpanch of Chapal. However these facts require a detailed enquiry and are being mentioned here only to emphasize the general sense of insecurity.

Our efforts to talk to the authorities:

We did not come across any report of an enquiry – whether by the police or by a magistrate - having been instituted into the above incident, though since Jayanti Ekka was treated in hospital, an MLC or a medico-legal case should have been registered. Jayanti’s relatives have not filed any FIR, nor has anyone come to record their statements.

We spent an entire day at the Collectorate at Rajnandgaon trying, unsuccessfully, to meet the Collector and the Superintendent of Police. We were told that both of them were busy with various official meetings.
Our greatest concern was to obtain immediate and specialized medical attention for Jayanti Ekka who was in a very vulnerable condition, and we gave an application at the Collector’s office in this regard. We must put on record the fact that the Additional Collector Shri K.K. Agrawal responded promptly to this application and issued directions to the Chief Medical Officer, Rajnandgaon and Mohla to send an ambulance to pick up Jayanti and get her admitted in the Government hospital. Mr. Agrawal assured us that he would try to ensure that funds for her further treatment were made available from the Tribal Welfare department or in some other way.

Our findings:

- It is quite clear that the security forces did not make any adequate effort to ascertain the identities or actions of the persons they picked up – Vijay Kujur, Kamlesh Bhuarya and Patiram Bhuarya, nor was there any provocation for them to have attacked them so brutally.

- The jawans engaged in indiscriminate firing. From all accounts there was no firing whatsoever from anyone else. The firing appears to have been to assert their domination over the area consequent upon the previous day’s incident.

- Manorama Kujur’s repeated warnings that there were children bathing at the bund were not heeded at all. The terrain was such that the children were visible across the field and with even minimal caution the injury to Jayanti Ekka could have been avoided.

- There was criminal delay on the part of the authorities in obtaining treatment for the child and it required the entire village to go and ask for this. It appears that the administration was more concerned about covering up the incident than giving prompt medical attention to the child.

- There is a visible fear of, and alienation from, the security forces in the minds of the villagers. This has been exacerbated by the lack of sensitivity shown to the elementary needs of their livelihoods, the tasks of agriculture and gathering of minor forest produce on which their existence depends.

- The refusal to allow private doctors to practice in the area has had serious consequences with regard to medical access for the villagers.

- Jayanti Ekka was discharged prematurely without even her wounds being properly stitched. She was even not provided papers for further treatment.
Neither the security forces, nor the police nor the administrative authorities appear to have conducted any credible enquiry into the incident.

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Report of the incident of death of school children and villagers on 8-10-2010 in Village Sawargaon, Tehsil Dhanora, district Gadchiroli, Maharashtra.

These are two reports that appeared in the national English press regarding this incident in Village Sawargaon, Tehsil Dhanora, district Gadchiroli, Maharashtra:

**Villagers blame ITBP for grenade attack on school.**

Sawargaon village (Gadchiroli district): A day after the blast, it was still hard to ascertain where the grenade that landed outside the school in Sawargaon village came from.

Some villagers pointed in the direction of the ITBP camp in Chhattisgarh, but the DIG of ITBP, I S Negi strongly denied that his men hurled grenades at the village. Sawargaon is located less than a kilometre from the ITBP camp, and just 300 meters from where a bullet-proof jeep of the ITBP was blown by the Maoists in a landmine blast.

Offering a detailed account, the ITBP said that between 11 and 11.30am, a convoy of two vehicles carrying four jawans each crossed Sawargaon towards Chhattisgarh. The second vehicle, a bullet-proof jeep, was hit by a landmine blast. Three jawans were killed.

The Maoists began firing at us immediately. Since our camp is close by, we rushed reinforcements, says Negi. He said intense exchange of fire continued for one-and-a-half hours, and that the Maoists were firing from the side of the village. Corroborating the presence of Maoists in the village, two young men said they heard slogans of indaba soon after the landmine blast. Our boys fired back. But we did not hurl shells at the village. The Maoists use improvised shells, which are not calibrated and can misfire, Negi said, suggesting that the grenade that exploded outside the school was from the Maoist side.

But many in the village were not convinced. The security forces should not have fired in the direction of the village even if Maoists were passing through, said a school teacher, who did not wish to be named. If the Maoists were firing from the village, why would they explode a grenade here itself asked a villager.

It does not matter where it came from. The children died, said Tani Bai, who lost her nephew in the blast.

Times of India
4 killed during Maoist attack in Gadchiroli

IANS
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GADCHIROLI: Four people, including two children, were killed and ten students injured when splinters of grenades lobbed by the Indo-Tibetan Border Police (ITBP) at Maoists landed in a school near a border town here, police said here on Friday.

The dead included a woman cook and a caretaker.

The incident took place at noon in the far-flung Sawargaon village near Dhanora town bordering Maharashtra and Chhattisgarh.

"Sawargaon (Maharashtra) is situated only three km away from Kahoka village (Chhattisgarh) where a camp of ITBP is located," Gadchiroli Deputy Superintendent of Police V.C. Chaple told IANS.

"The ITBP soldiers were firing at Maoists hiding in Sawargaon. They threw grenades at the militants, the splinters of which hit an ashram school nearby," Chaple said.

The two kids killed were between five and seven years of age.

"Ten students were hurt. They were shifted to government hospital," Chaple said.

"The condition of nine is stable, while one is critical and has been shifted to a Nagpur hospital," he added.

Express Buzz

The contradictory statements issued by the Deputy Superintendent of Police of district Gadchiroli, Maharashtra, Mr. V.C. Chaple, and the Deputy Inspector General of the Indo Tibetan Border Police, Mr. I. S. Negi, are themselves a cause of concern and were the reason why we felt it was necessary to carry out an independent enquiry into the incident.

Village Sawargaon lies in Tehsil Dhanora, district Gadchiroli, Maharashtra. There is a Camp of the Indo Tibetan Border Police at Village Koka in Chhattisgarh on the Maharashtra-Chhattisgarh border which was established sometime around May-June 2010. The Camp is about 3 km by a winding road and 1.5 km as the crow flies from Sawargaon. We noticed that large permanent structures like watch towers etc. were under construction in the Camp whose inmates had probably been housed in tents/temporary structures earlier.
There is a bridge on the river that marks the border between the two states and the ITBP Camp adjoins the bridge. On 9th October, a few hundred metres on the Maharashtra side of the bridge, a blast occurred, killing three ITBP jawans.

Our team met and spoke to many villagers of Sawargaon and their uniform account is that from about 11.30 am they heard a continuous sound of firing from the direction of the ITBP Camp.

Some explosive device fell right in front of a government hostel for tribal children located at Sawargaon. The hostel consists of two mud and tile houses on opposite sides of the village road not about fifty metres from where the village road branches off the main road. It is located at a T junction from which the village stretches in both directions. One of the houses contains the kitchen, a class room and a verandah at one end of which a table and chair for a teacher and an almirah of records was kept. On the opposite side of the road is the other mud house where the children stay. At the time the “bomb” fell, the mid day meal had been cooked. Three children – one standing at one door of the residential house, the second at another door and a third who was eating his meal on the verandah died on the spot. The cook who was sweeping the verandah was seriously injured and died after writhing in agony for two hours at the spot. A villager who was walking past the school also died.

The villagers were of the opinion that the “bomb” came from the direction of the ITBP camp. As proof they showed the broken branch of a tree which indicated the trajectory of the projectile before it landed in front of the school.

The villagers vehemently denied having seen any Naxalite in their village that day. Besides the distance from the village to the site of the bomb blast is not 300 metres as stated by Mr. Negi but one kilometre at the very least.

The villagers told us that this was not the only projectile fired at the village; others fell harmlessly (so far) in the fields around the village. They described seeing a machine that could be held on the shoulder while being fired at the ITBP camp – presumably a rocket launcher which could well have been used to fire the projectiles that rained on the village.

Though the projectile did not appear to have made a very deep dent in the concrete road where it landed, holes made by “iron pieces” that flew out of it were very large. These holes were visible in the wrought iron board of the hostel, and the wooden doors of the kitchen and store. The mud walls of the houses had been plastered over and whitewashed but the villagers described the holes in the walls as being big enough for a fist to pass through them. It is also significant that the police collected every single piece of splinter. One villager stated that a journalist had offered a thousand rupees for any piece that a villager may have found. It hardly seems likely that this extensive damage could have been created by a simple grenade thrown by the Naxalites. Nor is the story of Naxalites hiding in the village consistent.
with their having thrown a grenade at the village. It is also difficult to believe that gravel chips from the road thrown up by the explosion could have caused such damage.

After the explosion the villagers rushed into their houses and closed the doors. The ITBP troops came in the evening apparently to round up some villagers up and presumably "punish" them or accuse them of harbouring Naxalites. Only then did they realize that people had been killed and injured. Four injured persons were taken away to a hospital either in Dhanora or Gadchiroli in a vehicle belonging to someone from the village. One of them died on the way to the hospital. The dead bodies remained lying where they had fallen all night. The villagers described how they lit a bonfire and protected them from dogs and other animals. The next morning the bodies were taken away for post mortem. It appears that the parents of the children were paid compensation, possibly Rs. 50,000 for each death, but the payments were made in Dhanora. So far no administrative official or police officer had come to the village to enquire into the incident. Since it was a school holiday when the team visited Sawargaon, none of the children living there could be interviewed. A teacher who was not present on the day of the incident told us that the families of the children had been promised Rs. 5 lakhs from the Union Government, but they had yet to receive the money.

One of the witnesses asked us specifically to mention the condition of the school. It has been running for many years but is still housed in a kutcha building provided by the villagers despite the fact that they have offered to give land for the school, and written many times to the relevant authorities in Maharashtra.

Our findings:

- The distances between the site of the blast, the village, and the ITBP Camp; the impact of the explosive device; and the direction from where the "bomb" appeared makes the theory of a grenade attack by Maoists very unlikely. Besides the DSP Gadchiroli himself admits that the ITBP had lobbed a grenade against the Maoists hiding in the village. However the explosive device appears to have been considerably more dangerous than a grenade, as the holes caused by iron pieces (possibly shrapnel?) indicate.

- The attack by the ITBP was carried out without investigation or confirmation of the presence of the Maoists in the village; the site of the original blast was not so close to the village to make such presence a foregone conclusion. The shells still lying in the fields indicate that the ITBP fired indiscriminately in all directions.

- Prompt medical attention could have saved two lives; however relations between the villagers and the ITBP appear to be of mutual
distrust and alienation. Leaving of the corpses (of children moreover) where they fell all night was an exceptionally insensitive act.

- The presence of the village on the border of Chhattisgarh and Maharashtra has complicated the issue of responsibility for the incident with each government passing the buck to the other.

- The removal of all the “iron pieces” and the plastering over of the holes in the walls of the hostel would appear to indicate a hasty removal of evidence. It is also tragic that neither the police nor any administrative officer from either of the states concerned has conducted any enquiry into the incident.

-IV-

Report into the incident of alleged encounter at Jamul, district Durg on 15-10-2010.

Background

The Chhattisgarh police claimed a notable victory in having killed two dreaded Naxalites from the Kanker district - Nagesh and his wife Tarabai (or Pramila: the name of the woman alternates in different newspaper versions) on the intervening night of 14th and 15th October 2010. Nagesh is said to have had 70 serious cases filed against him in various criminal courts in the Bastar Division and a prize of 2 lakhs on his head. Similarly Tarabai is also said to have a prize of about 1.5 lakhs on her head and some 36 criminal cases pending against her. According to media reports (Times of India, 16/10/10) the two Naxals had arrived in Bhilai in connection with an ammunition deal. Working on intelligence inputs about the presence of ‘outlaws in Ghasidas Nagar, Jamul area’, the police reportedly surrounded them near Bogda bridge. A gun-battle ensued after the Naxals refused to surrender and fired at the police. About 14 rounds were claimed to have been fired during the gun battle and the police recovered 8 empty cartridges from the spot. While one of the three Naxals reportedly escaped, the police recovered two bodies from the spot, identified as Nagesh Joga (33), a Divisional Commander, North Bastar Range and his female accomplice. Nagesh Joga had reportedly sustained three bullet wounds below his chest, stomach and near the abdomen, while there were five gunshot wounds on the body of Pramila.

The All India Fact Finding Committee

The fact-finding team visited the site of the supposed encounter on 12th November. As has been the practice in recent times, particularly in Chhattisgarh, intelligence agencies and the police track and trail independent fact-finding or research teams, to intimidate locals (and the team) and hamper the investigation. Here too we were followed by men in
plainclothes riding motorcycles. Despite their conspicuous and constant presence, we went ahead with our fact-finding, and were able to get useful information from our conversations with local residents.

The spot from where the bodies were recovered is located at a junction comprising the Bogda over-bridge, below which is a road leading towards densely populated labour bastis/camps on one side, and the ACC quarries on the other. This spot is barely one and a half kilometres away from the Chhattisgarh Mukti Morcha Office situated in the dense working class basti, called Labour Camp, Jamul. The road leading to the quarries undulates on one side with about a hundred and fifty trees stretching over a distance of one and a half kilometres. On the other side of the road there is a dumping ground. The road terminates in a fenced area marking the beginning of the ACC quarries. This fenced area is patrolled by a dog squad belonging to a private security agency employed by the ACC.

Our conversations with local residents of Jamul, shopkeepers, and the dog squad led us to findings which were completely different from the police versions being carried in local and national newspapers.

Unlike the police story which was built around a gun battle in the middle of the night, which would have meant hectic police activity and long presence in the area in the morning, the scenario which emerged from conversations with locals was very different.

According to them, the bodies were seen in the morning of 15th October by local boys who went for a run in the morning around 4.30 A.M., lying close to the road near the Bogda Pul. Significantly, there was not much police presence in the area at that time. About an hour afterwards, the number of police personnel increased. Initially these were mostly officers; only later did subordinate police and still later jawans in camouflage came in large numbers. This is despite the fact that a camp of the 11th Chhattisgarh Armed Force is at Durg, and one of the CISF at Bhilai.

As mentioned earlier, the spot of the incident is located barely one and a half kilometres away from two dense labour bastis – Cess Colony and Labour Camp on the one hand, and Niyogi Nagar and Ghasidas Nagar on the other. In the intervening night of 14th and 15th no unusual police movements were observed by workers in these bastis, nor were any sounds of firing heard by any of the large number of residents questioned by the team including students and guards at the Regional Training Centre of the ACC which is only 100 metres from the site of the encounter. This renders implausible the police claim that the firing continued throughout the night.

Moreover, the incident took place on the night of “Navmi” during the Durga Pooja season, which means that the labour bastis were bustling with activity due to the setting up of Pooja pandals nearby. Incidentally, a third road to the junction which comes from Kohka leads onto the celebrated Durga Pandal of Vaishali Nagar. On the night of the incident, the Vaishali Nagar
Pooja Pandal had a special programme. Also in the ACC Club there was a programme by the celebrated Chhattisgarhi cultural team “Chandaini Gonda” which only ended between 12.30 and 1.00 am at night. Thus by and large, on the night the incident is supposed to have taken place, there were groups of people moving around on these roads late into the night until 1 a.m. at least; and none of these people reported hearing or seeing anything untoward, least of all a gun-battle.

Equally, the police story that a third accomplice ‘escaped’ into the forested area is improbable as our inspection of the spot in which the encounter supposedly took place showed that the only ‘forest’ that exists there is a roadside plantation which is a thin cover of about 150 trees. This plantation is certainly not a forest of the kind which would hide a person from a police party in pursuit.

The team ventured into the direction of the alleged route taken by the fleeing Naxal. A semi-pucca road leads from the site towards the quarry. On reaching the fenced site of ACC quarries, the team found some security personnel belonging to the Security Intelligence Service India Ltd who handle dog squads. They told the team that the sniffer dogs were well trained. On enquiring whether they heard or saw anything or any movement during the night of the so-called encounter, the guards told the team that they did not hear any shots being fired on the night of the incident, nor did they see any ‘suspicious outsider’ in the area.

If the encounter was real, and one man, the supposed seller of ammunition, ran towards the direction of the quarries, it seems strange that the dog squad and security guards who were positioned in the area barely a kilometre and a half away from the supposed site of the encounter, did not hear gun shots. It seems even stranger that the sniffer dogs, which are trained to respond and react specifically to these stimuli, did not sense anything that night.

Incidentally, one person who we talked to said that he had seen two cars late that night, around 12.30 at night when he was returning from the cultural programme at the ACC Club, parked near the Bogda bridge pointing towards the wasteland where the bodies were discovered. One of these cars was a red one, a bit larger than a Maruti, the glasses of the windows were rolled up. There was another car behind the red one, and two more cars which were approaching these cars from behind.

Another man we spoke to said that his ward representative, who had seen the bodies at close quarters, had told him that the bodies emitted a strong odour of decay. All the persons who had seen the bodies that morning commented that there was no blood on the spot whatsoever and that the wounds on the bodies were dry.

The pavement vendors near the spot told the team that they were removed on the day of the incident (the day preceding the night when the incident
took place), and the area was fenced off. Given the fact that at least one of them used to set up his shop very early (at 5 in the morning or a bit before in order to sell to workers returning from the night shift), this may have been a precaution to prevent them from seeing anything inconvenient.

Another man quoted a local intelligence bureau person as telling him that actually the local police thana of Jamul had no idea that this was going to happen (that the bodies would be planted there).

The condition in which the bodies were first seen by local residents, the lack of police presence at that time, the fact that nearby residents did not hear any gunshots in the intervening night, raises several questions about the claims by the police. If the residents did not hear gunshots, the dog squad did not sense the fleeing Naxal, where exactly did the ‘encounter’ happen? Where were the two killed? What is the sequence of events which led to the death of the two Maoists? It is pertinent to mention here that two days before the team visited Jamul, a press statement was carried by the local press supposedly issued by the CPI (Maoist). The said statement admitted that the couple had been members of the party but alleged that they had come to Durg for “personal and health related reasons”. It was also alleged that they had been picked up on 8th/9th October 2010.

Prima facie this appears to be a case of a fake encounter, and the two Maoists were likely to have been killed elsewhere and their dead bodies dumped at Jamul. It would also appear that the local police was not involved in the episode.

**Official version: lack of transparency**

After visiting the site where the two bodies were found, the team decided to meet officials to ascertain their version. The local police personnel and Intelligence Bureau personnel had so far handed out different and contradictory versions of the encounter. One of these versions was that the Naxalites were killed at Shivpuri Chowk which is several kilometres away. Another version was that the Naxalites were killed after a ‘hot pursuit’ by the police right from Fareed Nagar in Bhilai which is 6-7 kilometres away. Yet another version was that the police had obtained information of a secret meeting in the "kinnu garden" (plantation of orange trees) of ACC, prompting 7 police parties to close in on them in the area. As per another version the Naxalites were on their way to strike a deal for purchase of ammunition in Jamul, where they were killed in the encounter. Still another version went that when the vehicle of the Naxalites was stopped, they opened fire, to which the police responded in self-defence, killing two of them.

The team first visited Jamul Police Station, Bhilai and met SHO R.P. Sharma. Mr. Sharma insisted on getting the full details of team members, including their residential addresses and phone numbers. When he was asked to give details/information about the reported encounter, he refused to divulge anything at all and insisted that the team should either seek
details from higher officials or get information through the RTI Act. When
the team was unable to get any information after repeated requests, one of
the team members filed an RTI (dated 12/11/10, receipt no.171001/04)
application seeking ‘information regarding two bodies found near Bogda
bridge (Jamul) on 15 October 2010’. The RTI asked for (a) a copy of the FIR
(b) a copy of the post-mortem report (c) any other document concerning the
incident including seizure document/recovery lists. Till date no information
has been made available by the concerned police station, though a month
has passed since the application was filed.

The team was  told later by Ms Sudha Bharadwaj of the CMM that a similar
RTI filed by her asking for copies of the FIR and post-mortem reports of the
dead persons received a response, denying her any information on the
ground that the case was under investigation. It is not surprising that the
police should want to hold back information, which contradicts its claims
regarding the encounter. If the encounter was genuine, the furnishing of this
information would not have been a problem. If anything it would have lent
credence to the police case.

After meeting the SHO, the team approached the City Superintendent of
Police (CSP), Mr. Chauhan to ask for details concerning the encounter. Like
Mr. Sharma, Mr. Chauhan also insisted on first acquiring the personal
details of all the team members. Mr. Chauhan too refused to part with any
information. This is despite the fact that as according to newspaper reports
he led the 7 teams which “closed in on the Naxalites”. When the team asked
him about various police versions being carried by newspapers concerning
the ‘urban network’ of Maoists, he admitted that this was the only incident
of an encounter in Durg district. Although he claimed that the Durg district
is ‘Naxal affected’, he could not specify any other incident which could
corroborate his statement.

In the course of our conversation with him, we also gathered that the
investigation in the incident was being carried out through his office and the
concerned Investigating Officer (IO), Mr. Parihar was posted there. The
reason apparently given was that since the encounter had taken place under
Jamul Police Station, the investigation had to be conducted by police
officials who did not belong to Jamul police station. Considering that Mr.
Chauhan was part of the team which reportedly conducted the encounter, it
seems very unlikely that an IO who works under him would conduct an
impartial and fair investigation.

Since the team was very keen to get the official version, it decided to re-visit
the Durg District headquarters the following day and get an appointment
from the District Magistrate and the Superintendent of Police. The team
spent the day shuffling between the offices of the DM and the SP. Neither of
the officials responded to our requests for a meeting.

The fact-finding team found it bizarre that the local SHO, under whose
jurisdiction the killings took place and the City SP, who was reported in
newspapers as leading the encounter, absolutely refused to give any account of events that night, even in the most general terms. The refusal is perhaps significant in indicating that they were unsure of the story that they were supposed to tell.

**Ramifications of Jamul:**

The Jamul incident is among the growing incidents of ‘encounters’ in urban areas of Chhattisgarh. The fact that the area has a very strong and militant working class movement under the Chhattisgarh Chhattisgarh Mukti Morcha (Mazdoor Karyakarta Committee) against the Swiss multinational cement giant Holcim is significant. The organization is an eyesore for big companies and its participation in the anti-displacement movement, the campaign for the release of Dr Binayak Sen and against human rights violations has earned it the wrath of the State.

The encounter may have long term implications in terms of preparing the ground for a possible assault on legitimate trade union activity, and the CMM in particular. By ‘planting’ the bodies near urban working class localities, the police is attempting to harass residents for information. With the Chhattisgarh police talking of taking on the "Urban Network of Naxalites", such strategic ‘encounters’ in urban places can become convenient ways for harassing ‘inconvenient’ activists.

**Our findings:**

- The location of the encounter site, the testimony of the security agency and dog squad handlers, the testimony of workmen of the nearby bastis and the shopkeepers regarding the absolute absence of sounds of firing and police movements during the night throw considerable doubt on the police version of a “fierce gun battle in the forested area; in which “14 rounds were fired”.
- In the above situation there is a far greater likelihood that the two persons were killed elsewhere and the bodies were dumped here. This underlines the need for a strict implementation of the NHRC guidelines according to which each and every encounter should be enquired into and particular those in which a doubt is raised as to the veracity of the facts.
- That in the instant case, it appears that a magisterial enquiry had already been instituted but we found little confidence among the people in such an enquiry. Indeed most of the persons who testified did so, on the condition of anonymity for they feared reprisal by police authorities.
- That the absolute refusal of the police to either grant documents or even talk generally about the incident to the team was extremely surprising and indicative of a lack of transparency.

- The theory of a third “Naxalite” escaping was also highly improbable. Local people felt that since the area was a working class area which
was engaged in vigorous union struggles against the industrialists particularly ACC (which is now Swiss Cement Multinational Holcim) this fact could be used by the industrialists, and the police who connives with them, to harass union leaders, heighten police deployment etc. This is indeed a very disturbing possibility and again reflects the alienation of common people from the law enforcing agencies.

- Another very important aspect which comes out clearly in our investigation is the absolute failure of the press or electronic media to report independently of police handouts. Jamul is not an inaccessible or dangerous area, being in the midst of an industrial area and close to the towns of Bhilai and Raipur. Yet not only were the obvious inconsistencies in the police version not looked into by the media, but we were told that the media also refused to carry press releases of the Chhattisgarh Mukti Morcha pointing out such inconsistencies. An independent press is a necessary component of a democracy: the failure of the press to rise to the occasion bodes ill for the preservation of civil liberties of citizens.

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**Recommendations/Demands**

1. Callousness and irresponsible haste, indiscriminate use of force and weaponry on mere suspicion, a desire to dominate and terrorise ordinary citizenry, and reacting against attacks by Naxalites through trigger happy retaliatory actions against ordinary citizens – these tendencies of the security forces were repeatedly observed by us in the incidents at Ledgidipa, Sawargaon, and Kade. Responsibility must be taken at the highest levels to effectively check such tendencies and protect the lives of citizens in militarized areas.

2. In the above circumstances, it is absolutely essential that the mandatory guidelines of the National Human Rights Commission with regard to encounters are followed absolutely strictly in letter and spirit. In all cases where a reasonable suspicion is expressed that an encounter is fake as in the case of the Jamul encounter, a case should be immediately registered and the investigation should be conducted by a police agency from outside the state.

3. We strongly condemn ‘firing to kill’; our security personnel must under all circumstances adhere strictly to the ‘code of conduct’ which is, as far as possible, to capture unharmed even those that might be considered a threat by the State. The attitude of treating the loss of lives and limbs of ordinary citizens in the operations by security forces as a “natural” or “justifiable” collateral damage cannot be accepted. This unconstitutional, criminal and
immoral attitude has resulted in an atmosphere of fear and widespread alienation from state security agencies among citizens particularly adivasis living in forested areas.

4. Whenever citizens are injured, whoever be the perpetrator, the first priority ought to be prompt medical attention rather than justification or cover-up of the actions that have resulted in such injuries. In cases such as Sawargaon, or even in Kade, prompt medical attention could have saved lives or avoided permanent disabilities.

5. An independent press is one of the prerequisites of a democracy and the press must be allowed to report independently on operations by security forces and their fallout.

6. The State must accept responsibility for the deaths caused in Ledgidipa and Sawargaon and other such incidents. While no sum can compensate life, the State must make genuine efforts to adequately compensate the families of the victims, rather than making false promises and making them run from pillar to post.

7. Copies of the First Information Reports and Post Mortem Reports in cases of encounters must be provided to concerned citizens, and the police should not shelter under the excuse that investigation is underway. These documents are public documents and providing them cannot hamper any investigation. There must be increased transparency in police functioning and greater accountability to ordinary citizens.

Chhattisgarh Lok Swatantrya Sangathan; Campaign for Justice and Peace, Chennai; Peoples’ Union for Civil Liberties, Karnataka; Peoples’ Union for Democratic Rights, Delhi; Human Rights Law Network.

10th December, 2010

Human Rights Day.
Schematic Map of the site of the Ledgidipa encounter

Schematic Map of the kitchen of the Patel household

FIG 1

FIG 2. LAYOUT OF GAUTAM PATEL'S HOME
Photograph of the Patel’s kitchen
Schematic Map of the sites of the Kade and Sawargaon incidents.
Photos of Jayanti Ekka and Manorama Kujur

The bullet went right through the child.

Manorama crouches to show how she was hiding behind the tree.

Gaping wound of Jayanti Ekka.

The children were bathing across the fields.
Photos of the Sawargaon Ashram School and site

Hostel for tribal children at Sawargaon

The iron pole has been pierced.

The holes caused by the splinters of the explosive device.

Broken branch of the tree indicates the direction of the “bomb”.

The holes in the board are visible.

Site of the blast where the ITBP jawans were killed.
Photos of the site of the Jamul encounter

Bogda Pul

Road to the quarry mine

Body lay where the chalk mark is shown

Wall of the Training Centre can be seen

Only sparse trees in the so-called forest. The main road can be seen.

The truck shows the raised road over the Bogda bridge. One body lay just at the foot of this.
Letter submitted by the team to the Collector, Rajnandgaon

Dated 11th November 2010

To,

The Collector,
District Rajnandgaon,
Rajnandgaon, Chhattisgarh.

Sub: Urgent need of medical treatment to minor victim in a firing incident.

Sir,

We would like to draw your attention to the precarious medical condition of Kumari Jayanti Ekka d/o Devanand Ekka, aged 12 years, R/o Village, Kade, Tehsil Manpur, district Rajnandgaon which we have observed yesterday on a visit to her village.

We have learnt through discussions with her and a number of villagers that on 9th October 2010 at about 8.30 am during a firing incident in the paddy fields she was severely injured by bullet passing through her abdominal region.

Although she has been operated at the Bhilai Steel Plant Hospital at government expense, she has been discharged and sent home two days ago. Bare observation of her condition shows that she has large open wounds with flesh protruding through which stool is also being discharged. It is evident that her gastro-intestinal and urino-genital systems are not functioning properly. In this condition she is highly susceptible to severe infections in the unhygienic village conditions which might cause permanent damage to her for the rest of her life. She also requires regular dressing, removal of discharges, special diet, and medication which her family is unable to afford. The family has not been provided with her medical papers.

We request you to kindly ensure that she should immediately be kept under medical supervision in a speciality hospital at government expense until her treatment is completed and wounds stitched up and her family should be facilitated in getting all necessary treatment done.

Thanking you,

Yours sincerely,

Ujjwal Kumar Singh [PUDR, Delhi], AP Josy (Advocate, Sakti, Janjgir-Champa), Shashank Kela [Writer & Journalist, Chhenai], Sudha Bharadwaj (Chhattisgarh PUCL), Zulaikha Jabeen (Bhartiya Muslim Mahila Andolan)

Local Address for Correspondence: Sudha Bharadwaj, General Secretary, Chhattisgarh PUCL, D-8 Housing Board Colony, Nehru Nagar, Bilaspur, C.G. (Mobile No – 9926603877)
Letter sent by the TI Sankra to the PUCL

Letter sent by the TI Sankra to the PUCL
Letter sent by TI Jamul to the PUCL

कार्यालय धाना प्रमाणी जामुल, चिलाई जिला-दुर्ग (छ.ग.)

क्रमांक/15/2010

दिनांक 18.11.2010

प्रति,

सुधा भारद्वाज,
फर्जर सेकेटरी, झल्टीसागर
पी.यू.सी.एल. डी.ए.त. हाई कोलेजी,
मेहरा नगर, बिलासपुर छ.ग.

विषय :- सूचना के अधिकार अधिनियम 2005 के तहत जानकारी/दस्तावेजों की अवश्यकता उपलब्ध कराए जाने का शिकार।

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कृपया विचारित पत्र का अपलोड करने का कदम करें। प्राप्त हुई सूचना के अधिकार के तहत आपसे द्वारा दिनांक 15.10.10 को सुधा धाना जामुल क्षेत्राधिकारी पुलिस इनकाउंटर के संबंध में दर्शन प्राप्त कर लिने का प्रयत्न नहीं किया गया है। प्रकरण विवेचना में नहीं है। अतः सूचना के अधिकार अधिनियम के तहत 8(1)(j) के प्रावधानों के तहत उपरोक्त जानकारी या प्रदान नहीं की जा सकती। रिपोर्ट से असहमत होने पर प्रयास अपील की अवधि में अपील कर लें।

यात्री गई जानकारी के संबंध में प्रतिवेदन प्रस्तुत करें।

जन सूचना अधिकारी
एवं धाना प्रमाणी, जामुल
जिला-दुर्ग (छ.ग.)

प्रतिलिपि :- जन सूचना अधिकारी, पुलिस अधीशक कार्यालय, दुर्ग को संदेहित पत्र क्रमांक/पु.अ./दुर्ग/पु.अ.अ./321/10 दिनांक 2.11.10 के पतले में सूचनार्थ।

जन सूचना अधिकारी
एवं धाना प्रमाणी, जामुल
जिला-दुर्ग (छ.ग.)

Record P.S.Chhawal