

Fake Encounters in Odisha

How the State Picks, Arrests and Kills Its 'Maoists'

**Coordination of Democratic Rights Organisations (CDRO)
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On November 14, 2012, media reported that five Maoists had been killed and one red rebel captured during an encounter between the security forces and the Sabyasachi Panda faction in the Bhaliaguda forest area of Gobindapur panchayat of Gajapati district (bordering Ganjam), which falls in the jurisdiction of Mohana Police Station. There was additional news that Sabyasachi and his people were also hurt in the operations. Subsequent media reports carried the press statement of Sabyasachi Panda stating that those killed were innocent villagers, and that none of his party cadre or he had been hurt. On November 18, the families of the deceased also denied that they were linked with the Maoists.

Two independent teams (Human Rights Forum [HRF) and Odisha Sarvodaya Samaj [OSS]) had immediately gone for a fact-finding in the area. While the HRF team met the family members of four of the deceased, the OSS team had gone to the encounter site. In this backdrop, the Coordination of Democratic Rights Organisations (CDRO) also called for a fact-finding. A six-member team of individuals representing civil liberties and democratic rights organisations from Andhra Pradesh, Delhi, and Madhya Pradesh visited the area on Dec 8 and 9, 2012.

BACKGROUND

The Indian state of Odisha, though rich in mineral resources, is one of the poorest states of the country. After the adoption of the liberalization policy in India, there has been a campaign for industrialization to exploit these mineral resources. As in other parts of India such as Jharkhand and Chhattisgarh, mines in Odisha are sold to private companies such as Vedanta, Jindal, Tata, Essar, Arcelor Mittal, without taking into account the life and livelihood of the adivasis who have been further pushed to abject poverty and displacement.

The political leadership of Biju Janata Dal (BJD) under Naveen Patnaik has also jumped on the bandwagon of the new model of development in the past two decades, believing in a certain value of corporatization and tapping on mineral resources for capitalists' profits. The state government has signed as many as 96 MoUs in steel, power, aluminium, cement, titanium and IT sectors (*Financial Express*, Bhubaneswar, Nov 28, 2012). The government's Department of Steel and Mines lists out the 10 mega steel plant projects and 49 steel projects for which MoUs have been signed with the state government during 2004-06.

The signing of numerous MoUs has also witnessed people's resistance to the state sponsored alienation from their ancestral lands. These projects are seen

as 'anti-development' by tribals, dalits, fishermen and farmers fighting against displacement and alienation from their land. The state government, rather than taking into account the legitimate demand of the people of this region, has resorted to coercion by using armed forces and militia to capture resources. The resistance of the people of these regions is systematically met with the use of draconian laws such as UAPA against the leaders and tribal people in the name of Maoism. The southern and coastal districts of the state have been paying for this struggle with their people's lives. The government has been using terror and force to evict people, showing the true face of the corporate in the garb of a politician.

The importance of mining for state sponsored corporate development, people's resistance against such mining companies and the role of the Indian state in response to this resistance can very well be gauged by the statement of our Prime Minister, Manmohan Singh, during his talk to the select group of editors on September 6, 2010:

Naxalite [Maoist] areas happen to be those areas which are the heartland of India's mineral wealth . . . If we are not allowed to exploit the mineral resources of this country, I think the growth path of this country will be adversely affected.

Odisha has seen adivasis fight since Independence when they

launched a struggle against the landlords snatching their land through ruthless feudal exploitation and money lending. The Naxalite movement in Odisha emerged in the early 1960s as a peasant movement in Gunpur subdivision of the then undivided Koraput District. In 1969, Charu Mazumdar proposed the formation of guerilla squads and the launching of a farmer's revolution along the Andhra- Odisha border. He also organized the merger of the Orissa State Committee with those of sister organisations in the neighbouring states. Several leaders were arrested after the Chitrakonda incident (about 5000 labourers attacked the Chitrakonda Police Station, Malkangiri, and looted all the arms and ammunition in 1968). Subsequently, till the early 1990s, the movement was existent but fairly dormant in Odisha.¹ It now exists in over 19 districts.

The state government banned the Maoist party only in June 2006. As reported in the media, the government did not impose a ban when hundreds of armed Maoists attacked Koraput district headquarters in February 2004 and looted a large cache of arms from the district armoury; nor when Maoist raided Udayagiri town in Gajapati district on March 24, 2006, and freed 40 prisoners from a jail and abducted two police officers. The ban has been brought in because those in the corridors of power have begun to believe that the Maoists are the biggest obstacle to the ongoing

industrialisation in the State.²

The security forces have multiplied in numbers in the past ten years, since forceful land grab has become the official strategy. Currently, six battalions of Border Security Force (BSF), eight battalions of CRPF (Central Reserve Police Force) and one Commando Battalion for Resolute Action (CoBRA) are deployed in the state against three CRPF battalions provided by the Centre in 2006, besides the state and district forces.³ Just for an idea to the extent of preparations that have been undertaken since then, 100 units of anti-Naxal Special Operation Group (SOG)⁴ have become operational.

People in more and more parts of the state (as in many parts of the country) are now facing a continuous threat on their democratic and constitutional rights. The incidents of violation of people's rights to a livelihood, security, home, culture are growing day by day. People resisting a take-over of their lands are seen as criminals by the government. The very hands of the government and its machinery of the police and security forces are exploiting people's rights.

Political scenario

The Naveen Patnaik-led Biju Janata Dal government is in its third tenure. The BJD had been in a ruling alliance with the BJP since 2000 during the first two terms, but broke the partnership just before the March

2009 polls. The BJD won a whopping 103 assembly seats out of 147 (the party had lost majority of the seats in western Odisha, which includes the starving regions of Kalahandi-Bolangir-Koraput).

The political parties in different states have failed to recognize and respond to people's voices. Chhattisgarh, Andhra Pradesh, West Bengal, Odisha, Jharkhand have different parties in the state and in the centre, but the situation has only been worsening everywhere.

In the recent past, the state has seen upheavals in the political circle with Naveen Patnaik's break with Pyari Mohan Mohapatra, chief minister's close aide and the principal architect of the party's successful journey in June 2012.

Gajapati and Kandhamal Areas

The district Gajapati and Kandhamal (earlier name was Phulbani) are in the south of Odisha. Both these districts had been formed during the Biju Patnaik government in the 1990s; Gajapati from the bigger district of Ganjam (in 1992) and Kandhamal in Boudh-Kandhamal (in 1994) respectively. Gajapati district has 51% tribal population. Kandhamal is also a tribal dominant state with 16.9% dalits and 52.7% adivasis.

The two districts have been neglected continuously. The Orissa State Development Report (2001) itself

denotes the severity and the widespread poverty in the districts. 91.5% of the rural families in the district of Gajapati live under conditions of poverty (income less than Rs 11,000), with one-third (33.3%) in destitute conditions with an annual earning of less than Rs 4000. Kandhamal has been reported with 43% people in destitute conditions and an overall 93% of the population living in poverty.⁵ Both these districts are among the worst three on the Human Development Index in the state.⁶ These areas are now under the onslaught of another kind by the state's armed forces.

The Maoist activities in Odisha started in the southern districts, Parlakhemundi (district headquarters of Gajapati) being one of the main bases. The movement further expanded under Sabyasachi Panda's leadership since 1996.

Sabyasachi has been a critical player in many of the violent incidents during the past fifteen years. He was also the secretary of the CPI (Maoist) Orissa State Organizing Committee. He has also been said to be the main person behind the abduction of the two Italians in April 2012. In July 2012, Panda was expelled from the party when a letter written by him to senior Bureau members raising several issues internal to the party came out in the press. Subsequently, he declared the formation of 'Odisha Maovadi Party'.

Issues in the area

- a. The lives of people in the area, their democratic and constitutional rights are under constant threat. They do not feel safe even in their homes.
- b. The concept of democracy has been hollowed out. People's voices have no place in the rule of the state. People do not have the democratic space to question the actions of the government. There is a pressure on civil society and media to tow the government's line. Any persistent questioning can be subsided by threats and arrests. The recent bomb hurling incident in POSCO killed three anti-POSCO activists and the police claim that the incident took place as an outcome of making bombs. This shows the real face of the state.
- c. Immunity to the police is very strong with protection from higher authorities and an absence of a concerned voice among any of the political parties. Blatant violation of human rights, arrests of anyone seen as an impediment to the police for any reason, rape and encounter killings continue with sanctions from the top.
- d. There is widespread anger and a demand for justice has started coming from everyone. The lowest tiers of the government machinery are the people closely associated with the villagers and the communities. In other words, they come from amongst the people themselves, as they may be the elected panchayat members, government teachers, health workers and are living there themselves and have thus not isolated themselves from people's realities. They are standing up with the dalits and adivasis. People are also supporting each other. At every place the fact-finding team went, it was collective grief that they were sharing. Many a times, for the numerous incidents of violations they have to keep facing, the people have collectively stood and done dharnas outside police stations.
- e. Discussions in the police circles, jail authorities and the middle class sections of society seem to reflect an acceptance of the idea that collateral damage will take place, that innocent people will be caught in the cross-fire. But there is no remorse for it. Even when it is obvious that it is a case of mistaken identities, there is no acknowledgement of the mistake. It suggests this is being done deliberately and is considered justified.
- f. Heavy deployment of forces in the area has made movement difficult even for the common people. There is a sense of insecurity with the number of forces everywhere. As one moves in and out of an area, security personnel are seen hiding in the bushes and checking on the roads. The area is a war zone and everyone is seen and treated with suspicion.

THE KILLINGS

As described earlier, media had reported an encounter took place in Bhaliaguda village of Gajapati district of Odisha in which 5 Maoists had been killed. Our team interacted with the family members of those killed in these encounters by visiting their villages. The team also talked to the other residents of these villages and police official of Mohana P.S. which was involved in the encounter. The following is the detailed background of victims and accounts gathered from the family members and villagers.

Who were they?

Shyamson Majhi
Village – Bhingiriguda, Gram Panchayat – Saramulli Block – Daringbadi

About him - Shyamson Majhi was a middle-aged Qui adivasi. His wife, Laxmi, is about 45 years old. They had two sons; one boy is studying in the government hostel at Daringbadi, in class 9 and the other son is mentally challenged. Shyamson did shifting cultivation with his brother. Within them, they had 2 acres of land. To make ends meet, he and his wife also laboured in other people's fields and took up work under NREGA. The fact-finding team were shown his job card and other identity papers.

Shyamson Majhi was a respected, well-known and an active person in the area; he had stood for the sarpanch's post in 2006 and has undertaken

continuous efforts for getting electricity and water in the area.

Circumstances around his killing - On November 13, he left home saying he was going to the block headquarters, Daringbadi, for work with the advocate regarding the case on 11 people of their panchayat area who had been participating in the struggle against the pilferage of PDS rice (see box).

On the evening of November 14, news flashed on the television that five people had been killed, and one of them was an ex-Samiti member. Hearing this, people in his village got worried as Shyamson had not returned and it was not normal for him to stay away from the village. Eight people from the village, including Shyamson's wife and brother, went to Police Station Brahmanigam and were told to speak to the I.I.C., Mohana Police Station, for details. They reached there by 7 in the evening and were shown the photographs of the dead bodies and they identified one of them as Shyamson Majhi.

Many people in the area voiced that the sarpanch's brother-in-laws had openly threatened Shyamson Majhi in Godapur Market, during the protests, that 'One day, we will kill you. By any means, the police or the Maoists.' And now, they have done it through the police. The villagers also feel that the police knew who they were killing (or had killed). Otherwise, they asked, how

could they have announced that one of those killed was an ex-samiti member, before anyone from the family had come to recognize the bodies?

Shyamson's brother has also found out from the village of the encounter site that the police has retrieved Shyamson's bike from the site but are not showing it. He said that he feels scared to go and ask for the bike back though he has the bike papers. No one from the police station or the local administration has come to the village to find out anything or speak to the family.

Ghasiram Bagsing
Village – Mardhipanka, Gram Panchayat – Saramulli
Block – Daringbadi

About him - Village Mardhipanka has about 110 families (60 Qui adivasis and 50 SCs). Ghasiram Bagsing was elected as panchayat samiti member in 2006, and subsequently did not fight elections as it was reserved for women. He was a Panno by caste (SC), Christian. He actively led the movement against corruption in the graam panchayat. He was a petty NREGA contractor and did this work for his living.

He is survived by his mother, five younger sisters, wife and four small children. Three of the children are in the hostel, in classes 2 to 6. His wife, Lokhani, said she had gotten married in 1998 and within a year, her father-in-law had died. Ghasiram was bringing up the entire family. His

mother, Pauleena, is distraught after losing him and unsure of what the future holds for the family.

During the fact-finding, Ghasiram's wife was very upset and said that he was not a Maoist; he had fought against corruption. He had not done anything illegal and was only looking after his family.

Circumstances around his killing - Shyamson and Ghasiram went on the bike together from the village, both saying they were going for the lawyer's work. But reports from the village suggest somebody had told him that they should go to meet the Maoists for the rice matter, and they went to meet them for that purpose. However, he had not told his family that he was going there.

The family got to know about the murder through other relatives in Mohana, who had got to know through the media and had then gone to the police station to find out. When Lokhani went to the police station, she was crying loudly and told the police they should come and enquire in the village, that he worked for everyone, and he is innocent. She showed all his identity papers. Six bullet injuries were found on his body.

The village was like a collective unit. Everyone was part of the grief. Many people voiced that they wanted to fight for justice as what had happened was wrong.

Village - Saraumulli

As the fact-finding team was

Pilferage from the PDS in gram panchayat Saramulli

Since August 2012, there had been a clear conflict between the sarpanch's family and the local populace. The sarpanch, Kamlapat Majhi, had been allegedly pilfering rice from the Public Distribution System. When people questioned her, her family members retorted that they were taking the rice for the (CPI-Maoist) Party.

Eleven villages come under the gram panchayat area of Saramulli. On August 19, 2012, about 2000 villagers from many of these villages protested against the sarpanch. They seized the rice and reported against the sarpanch in the police station. Two home guards came and the truck carrying the rice was seized by the police.

Subsequently, the people locked the gram panchayat office, and demanded the dismissal and arrest of the sarpanch on grounds of corruption, and the arrest of her family members (Dharmendra Pat Majhi and Nahar Pat Majhi).

During the protest rally, the Block Development Officer (BDO) and tehsildar also came. The offer from the administration's side was that the people should hold a gram sabha, and take up the matter there. The people refused saying that the gram sabha would be held only after the sarpanch had been dismissed. On the sixth day of the protest, the local administration forcibly opened the office and some people, supporters of the sarpanch, were agreeable to the idea of holding the gram sabha. These people then filed a case against 11 people of different villages for opposing this. The case is going on.

On October 10, the sarpanch was arrested and two days later, another rally was held attended by big numbers demanding her dismissal from the sarpanch's post. While the sarpanch has not been dismissed, she has been granted bail.

Shyamson Majhi and Ghasiram Bagsing were also part of the leading group of this movement. Not being present at that specific time when the police rounded up the people, they escaped having cases put on them.

returning from the villages, a crowd of about 15 men were waiting on the road at Saramulli; they stopped the vehicle saying they had something important to say. They wanted to share that Shyamson Majhi and Ghasiram Bagsing worked a lot for everyone in the gram panchayat area; they would go house to house and help people out.

They also felt that the conflict with the sarpanch's family has a direct bearing on the killings of Ghasiram Bagsing and Shyamson Majhi. People said it was commonly known that s/he (she and/or her family members) had sent an application to the Maoist party complaining of them and they had therefore been called.

Village – Pakalmaha

The fact-finding team tried to get the Sarpanch's views, but she refused to meet them though she was in the house. Contrasting to the situation in every village where everyone seemed to have collectively lost a family member and it was a shared pain and concern, people did not enter the Sarpanch's house compound and the demarcations or stress in the relationships were visible.

Aiwo Padra

***Village Bujuli, G.P. Godarpur
P.S. Brahmanigam***

There are about 115 families (75 Pano caste and 40 Qui adivasi) in the village that can be reached only by walking about 2 kilometres up a slope. There is no electricity in the village, with only one household having been able to purchase one solar lamp. The nearest health centre is 12 kilometres away uphill and downhill. Most people in the village are landless, and do subsistence farming and shifting cultivation. Farming is not adequate to fulfill people's survival needs, and many men and women do NREGA work.

About him - Aiwo Padra was respected and well-known for his work as the Pastorate Secretary. In the Mahagudi Pastorate area, there are 25 churches and thus, Aiwo was accountable for this entire area. He was also working for the church for the spiritual development of people. Aiwo Padra's family owns land little less than an acre, but the land

cultivation is not adequate to meet their needs. He also undertook work in the BPL Survey. (The fact-finding team saw his ID-card stamped by the Tehsildar for this purpose, and a tablet used in the survey). His wife, Ranjitha, is an anganwadi worker.

Aiwo Padra had rented a place in Brahmanigam since February 2012; they had enrolled their five-year-old son in Good Shepherd School in Brahmanigam. Aiwo himself was educated till class 12, and had taken this decision for the child's better education. Ranjitha being an anganwadi worker would stay in the village for her work but, at times, would come down to Brahmanigam to spend the night here. Aiwo would come to stay in the village every weekend when the son's school was off.

Circumstances around his killing

- During the week preceding the encounter killings, Ranjitha spent several days/nights in Brahmanigam as she had come to the town for ICDS work and had been returning from a week's training. On November 12, she returned to the village with her son since it was Diwali break for the school. Aiwo dropped them on the foothill of the village (on his bike) saying he had some work and would come back by night.

However, there was no news of him and she couldn't reach his phone. It was only on November 15, through other people who had gone to Godapur, that she got news of his death. The local school teacher helped her to reach

Brahmanigam on his bike and she sought his uncle's help (his uncle, Luksona Majhi, is a BJD functionary) to find out what had happened.

His uncle and another local person retrieved his body from Berhampur Hospital. Aiwo's head had a bullet injury, and it was totally smashed. There was a bullet injury in his abdomen area also. After the post-mortem, his own pants were on the body but his vest and shirt were not on him.

Ranjitha said she did not know why he had gone to Bhaliaguda area or to the Maoists' area. 'If I had known he was going there, I would not have allowed him to go.'

Sanatan Mallik
Village - Gaheju, G.P. - Hatimunda, P.S. - Brahamanigam, Block - Daringbadi

About him - Sanatan Mallik lived in his native village, Gaheju, with his extended family. Sanatan's wife, Mamita, is an ASHA worker. They are Qui adivasis. Married for nine years, he and his wife had two daughters, three years old and a year old. They had some land, but the produce was not adequate for the family's sustenance, and both Mamita (his wife) and he worked as NREGA labourers. Sanatan was also a 'Layman' in the church. Every Sunday, he would assist the pastor in giving sermons to the congregation.

Sanatan and his sister-in-law have also pursued a case against the local police for illegally detaining his

brother, Barsu Mallik. Barsu was picked up from his home on September 27, 2011, on charges of supplying food grains to the Naxals. But he had been shown to have been arrested over a week later, on October 4. This was only after his wife moved the High Court when he could not be traced at the police station and the jail. The High Court had awarded him a compensation of Rs 1 lakh and granted him bail in October 2012 itself.

Circumstances around his killing - Sanatan was an epileptic patient, and would often go to Daringbadi for his check-up and medicines. On the morning of November 13 too, he went saying that he had to go to the hospital. When he did not return by evening, his wife was worried as he had never left her and stayed away, but she couldn't get through to him on the phone.

On November 15, she had gone to Brahmanigam for an ASHA Workers meeting where she heard the news of the five people of this area being killed. She sought the help of her husband's nephews studying in the town. The two boys informed her that they had seen Sanatan with Aiwo Padra and some other men on a bike on November 13 in the marketplace. He had just called out to them saying that he was going with them. Hearing this, she found out about Aiwo Padra's local accommodation (rented) and rushed there. There, she met Aiwo's wife, Ranjitha, who also said she didn't know anything but that her husband had also been killed. Mamita realized that

if Aiwo had died, then her husband would have been killed as well.

Several people from the village went to get his body from Berhampur. The corpse had not been kept in cold storage apparently, since it smelled bad by the time they got it on the November 17. Bullet injuries were visible on his

head and neck.

Sanatan's wife, Mamita, is obviously upset with the police, and said she wants the security personnel to be punished as her husband has been wrongly killed under the ruse of calling him a Naxal.

Laxmikanta Nayak

Kandhamal: Communal Violence and Sangh Parivar

Kandhamal was rocked by communal violence during August-September 2008. The victims of the violence were primarily Christian Panos but also included many Christian Kandhas. Panos are a dalit community. The assault on them was the work of Bajrang Dal, which principally mobilized the adivasi Konds or Kandhas of the district to pick up arms against the Panos.

In spite of historic differences between Kandhas and Panos, the two communities have co-existed and also been inter-dependent for over 200 years in the area. The real reason lies in the Sangh Parivar's programme in Kandhamal, spearheaded by Lakshmananda Saraswati, who started his work in this district in 1969. Lakshmananda campaigned viciously against Christianity and promoted India as a Hindu rashtra. In every meeting, he would ask people to attack churches. Conversion rituals were carried out and given media publicity.

The exertions of Lakshmananda resulted in incidents of violence against Christians since 1986, in which the caste Hindus and Hinduised Kandhas have assaulted Christians. Every year, there was trouble around Good Friday and Christmas to dampen the festival celebrations. In December 2007, the violence started with the excuse of a temporary arch being put up for Christmas celebrations, in front of a place of worship of the goddess Durga. There was another complaint of Lakshmananda being attacked. There was also a campaign call by the Sangh Parivar demanding Christian Panos should not be given SC certificates during these dates. It is estimated that about 90 churches, about 100 other institutions and 600 to 700 Christian houses were destroyed. Many people were injured, and 11 people died.

On 23 August 2008, a group of armed persons attacked the Kanyashram at Jalaspeta (an RSS school) and killed Lakshmananda along with four of his followers. The Maoists claimed that it was their work, but the Sangh Parivar pushed the theory that it was the Christians who had killed their ideologue. The dead body was taken through an unnecessarily lengthy procession in Baliguda subdivision with provocative slogans and speeches by the RSS top brass.

The mob coming back from the funeral on August 25 indulged in large scale arson, destruction, assault, murder and rape. Christian households in the interior villages had to escape and hide in the forests to protect their lives, leaving the disabled at the hands of the mob. All the houses were burnt down, along with people's belongings. People walked for over three days to reach refugee camps. In spite of curfew orders, the violence continued and the local police ignored the situation with them saying that "the guns are in our hands, but the bullet is in Naveen Patnaik's hands". The Biju Janata Dal (BJD) has shared power with the Bharatiya Janata Party (BJP) and has chosen to close its eyes to the sectarian depredation of the Sangh Parivar.

Source: *From Kandhamal to Karavali: The Ugly Face of Sangh Parivar*; March 2009. A fact finding report of nine human rights organisations that visited Odisha and Karnataka in Sep – Oct 2008

Village - Lujerimunda, G.P. - Badarsahi,

P.S. - Tikabali, Block - Tikabali

About him – Laxmikanta Nayak belonged to the Pano community (SC). He was a Christian by religion. In the village, he would work in the stone quarries for his livelihood. He would also assist the pastor in preaching the gospel. He was also the church deacon.

During the Kandhamal riots in 2008, his village was attacked severely. Laxmikanta's house was also damaged and all the belongings were looted. Almost all the Christian families, including his, had moved to the state capital after the riots because of the insecurity in their area. He started living with his family (wife, two daughters and a son) in Shaheed Nagar Basti, Bhubaneswar. In Bhubaneswar, he took up painting to sustain his family. His middle-aged wife, Basanti, had to take on the unfamiliar work of being a domestic help working in several houses.

In 2010, Laxmikanta returned to his village after things seemed to have calmed down. Some neighbours have also come back, but many continue living in Bhubaneswar. His eldest daughter, twenty-three years old, is studying in Trichur, while the other two children (twenty-two-year old daughter and twenty-year-old son) lived in the family in the village.

Circumstances around his killing

- On November 13, Laxmikant left with

another man, Junesh Diggall, of their village. Junesh wanted to go and invite people for his daughter's *acoosia* function that is held 21 days after the child's birth. Junesh had asked Laxmikanta to accompany him as a friend. They had planned to first go to Raikea village to invite Junesh's in-laws and then onwards to Daringbadi to invite friends and relatives living there. They left by bus in the morning, and the family subsequently confirmed they had met their relatives in Raikea as planned. About 9 p.m. that night, he had called his daughter to say they had gotten late and would reach by next morning.

There was a call for bus strike for the next two days in Kandhamal (Sangh Parivar supported Qui Samaj Samanvay Samiti had called this against the government policy of appointment of teachers from outside the district). As buses were not plying, the family felt this may be the reason for their not coming back but were worried as he had not called with further news nor was there any reply on his phone.

Late at night on November 14, Laxmikant's son got a call from a home guard posted in Police Station Tikabali (the home guard was from their village) that Junesh was being beaten by the police. Early in the morning on November 15, the son informed Basanti about this call. Thinking that Junesh is in police custody, they felt that even Laxmikanta would be with them. However, as news was trickling

from the television and various other people, they sent family members to the police station and the death was confirmed. The body was given to the family a day later, on November 17, when identification papers were brought. Bullet injuries were on the head and neck. When they received the body, there were no clothes on it after the post-mortem.

Condition of the family after his death - Laxmikanta's wife, Basanti, voiced that he was faultless and that innocent people had been killed. "My husband didn't fight with anyone, and he has been killed. We want justice for this."

She has moved back to Bhubaneswar to have her elder sister's support after this unprecedented incident. She may need to go back to working as a maid. Her daughter is with her, while her son continues to live in the village. "We don't know how we'll survive now; I am asthmatic. The government has done injustice to me; they (the police) should be punished."

Junesh Digal

Village - Lujerimunda, G.P. - Badarsahi,

P.S. - Tikabali, Block - Tikabali

Junesh Digal is not one of the five killed in the encounter, but it is important to describe him as he is the only person who survived this encounter, and was part of the group of villagers who had gone for the meeting with the Maoists. The fact-finding team spoke in detail to his elder brother,

Dharmendra Digal, and his sister-in-law.

About him – Junesh lived with part of his family (his wife and children, his parents, his elder brother) in the village while another part (his two elder brothers and others in their family) lived in Bhubaneswar.

Junesh did farming in the village. He also undertook community development work, and would often assist people in accessing the local administration's offices for various works (regarding BPL and other schemes). He was also active in the peace committees initiated after the riots. His brother informed that they have always worked in the area, and can trace back the history of their 11 generations.

Junesh has two children; his younger daughter was born in October 2012. His wife is an ASHA worker.

Circumstances around his arrest

- Dharmendra Digal (Junesh's brother working in an NGO in Bhubaneswar) informed that the family had planned to conduct the ceremony after the child's birth on November 17. On November 12 (Monday), Junesh had called his brother saying he didn't have money and so Dharmendra deposited Rs 300 in his bank account so that he could use this for travelling to go and invite people. Thus, on November 13, Junesh left with his neighbour and friend, Laxmikanta, for Raikea to first invite his in-laws for the child's *acoosia* ceremony and then onwards to

FIR No. 69 dated 14.11.12, Police Station Mohana, district Gajapati

The report filed by the S.I. of the P.S. Mohana denotes that the operation party included 2 units of SOG, two units of DVF, one each from Ganjam and Gajapati, S.I.s of Mohana Police Station as well as from Ganjam under the leadership of Subedar Jeetendra Kumar Dehury of 3rd SS Battalion, Ganjam.

The FIR suggests that the police opened fire only after repeated warnings and self-introductions of doing national duty, etc., and when it was provoked:

On seeing them, we gave our identity as police and asked them to give their identity . . . they did not respond, rather opened indiscriminate fire. Then immediately we took cover and defensive position. Again we asked them not to fire as we are police and performing our legitimate duties . . . in spite of this they continued fire . . . some body suspected to be Sabyasachi Panda instructed them to advance and to intensify their firing. As a result, our lives became in stake. Finding no alternative, in order to save our lives, we opened controlled and restricted firing . . . After exchange of fire, we waited for some time and conducted search . . . able to apprehend one person namely Junesh Digal. During search we also found five wounded un-identified dead bodies with 4 SBML guns, 2 pistols . . . 28 rounds of ammunition, bags containing maoist literature, tiffin, water bottles, polythene sheets, food stuff.

Audio statement by Sabyasachi Panda, Odisha Maowadi Party immediately after the encounter *(English translation from Odiya)*

Samsung Mallick and Anjum were arrested on November 12 . . . on November 14, at about 10 a.m., we got information that the police has encircled the place. We prepared to retreat. Those unarmed civilians hearing about the police's arrival ran towards the police out of fear, without responding to our calls to come with us. They were going down with their hands up. Without any caution to surrender, they fired from their automatic guns and killed 5 out of 6 village people. We did not fire, as civilians were in-between. We lost one local made pistol, one radio, 2 plastic mats and 1 SLR. After that, they threw 5 cells. The persons had come to us for reporting about corruption in block and government offices where they are taking 25% of the sanction money as bribe.

In Saramulli G.P., the Sarpanch Kamalapat Majhi in Pakalmaha had sold 50 kg PDS rice. People have filed an FIR against this, but the police are not taking any action. Nahar and his brother had alleged that they send rice to Nikhil (CPIM) and were taking rice for this reason, and Bagsing had been punished by Maoist Party earlier too. Corrupt police should be punished.

Aiwo Padra came about how Lata got bail. Sanatan Majhi of Gaheju had come to discuss his brother's bail matters. Tikabali people had also come to discuss the Bajrang threat on minority.

Daringbadi to extend the invitation to more relatives and friends.

There was also another ceremony fixed for November 14 at home to mark his cousin's death and so Dharmendra (in Bhubaneswar) put his sister-in-law and niece on a bus to go to the village. Junesh also called his sister-in-law the same night (November 13) confirming that she should come for the programme, and it was also mentioned

in passing that he couldn't reach home that night and would go back the next day.

He didn't come back home on November 14 and calls to him went unanswered till noon that day and later the calls couldn't get through. On November 15, the family saw his photograph being flashed on T.V., and newspapers were portraying him as a Maoist being picked up. He and other

family members went to Berhampur Hospital also and helped in the identification process for Laxmikanta.

They went to R. Udaigiri Jail a couple of times but were not allowed to meet Junesh though they saw him being taken from one room to the other in the jail premises. It was only on December 1 that they had a chance to speak to him.

Dharmendra described that Junesh was in an emotionally distraught state; he broke down and was very concerned about Laxmikanta's family and his first question was whether Laxmikanta's death ceremonies had been carried out smoothly. He told his brother and others (who visited him in jail) that on November 13, he and Laxmikanta had, as planned, gone to Raikea and Daringbadi. In Daringbadi, he got an SMS on his phone that the social activists of the area should come and meet (the Maoists) to discuss the situation regarding the peace conditions and what is happening in the area after the 2008 riots. Someone was to lead them to the Maoists' hideout. It was when they were returning that the police fired at them. They had put up their arms to show they were unarmed and were civilians but the police suddenly fired relentlessly. Junesh managed to hide behind a boulder and was picked up after the firing ceased and the police was searching the area. The police had beaten him a lot after that. They had hit him with rods.

Subsequently, the police had also come to the village and wanted the family to sign some papers saying how Junesh was arrested. The family refused saying "Why should we accept the police's version of the incident when we know he is not a Maoist?"

Dharmendra feels the police also know they have got an innocent person, and have therefore said informally that since he hasn't done anything, he'll finally get released and come back home. But he also added that they (police) do this so they get promotions on the basis that at least some "Maoists" have been killed. Dharmendra added that the family now knows what police torture or *atyachar* means.

Version from the Mohana Police Station

The fact-finding team met the I.I.C. at Mohana Police Station. Guarded by the SOG forces also camping in the area, the police station is heavily fortified. The walls around the police station have posters of Sabyasachi Panda and his comrades. The I.I.C. commented that if any villager came into the police station area, he would be seen as an informer by the Maoists and be punished, and that is why they don't get any information.

According to the police version, the five people were killed during an encounter with the Maoists. On specifically being asked whether anyone from the police side were killed,

he said two District Volunteer Force (DVF) personnel were injured but he could not name them and in spite of shuffling with the papers, he could neither find their names in his files nor provide any details of injuries. The I.I.C. was putting up a front and suggested that the five were trained militia. When countered that the family members are claiming that they were not part of the Maoist party, he said all trained militia have alternative legitimate lives. He added that there may be people roaming outside the police station just now who were Maoists and everyone claims to be innocent. But he also added that we can't have hundred percent proof of who is who during an encounter and that these things come up later.

The I.I.C. said that the investigation of the Maoist cases had been assigned by senior authorities. Therefore though the I.I.C. was in charge for this police station, the case was being handled by DSP Suresh Chandra Paricha. He did not share the FIR reports of any of the three cases for which information was sought (the encounter deaths in Bailaguda on 14.11.2012, arrests of four people from Bailaguda on 18.11.2012, and Sangram Mohanty's arrest on 5.12.2012). The FIR of the encounter deaths has been procured through the lawyer. The FIR denotes that the security forces started firing after repeated warnings to the Maoists to stop firing and was done only in a restricted manner for self-defence. It

additionally shows that five bodies were recovered from the site and one person by the name of Junesh Digal was taken in custody. However, there is no mention of anyone being injured from the police's side.

Conclusions about the killings

On the basis of the investigations, the team concludes that all the five men killed were not armed militia of any left-wing extremist party. Those killed were, in fact, daily wage earners and church functionaries, some of whom were actively engaged in mainstream political and social activities.

The six persons went for the meeting with Odisha Maowadi Party, the break-away group of the CPI (Maoist) on the evening of November 13, 2012. They were led to the meeting point in an area that falls in the Gajapati district. The six persons were leading fully documented lives in their villages in Kandhamal district. They apparently went in three pairs as the fact-finding team found they were known to each other in twos and were last seen with the other. This motley of villagers was probably called for reasons specific to each pair. It appears that their decision to stay the night with the party came at night as two informed their homes that they would come in the morning. On the morning of November 14, the forces surrounded the hill where the Maoists were camping. The six, not being part of the Maoist party, started coming towards the police, walking down the hill, with

their hands up, while the party cadre retreated into the forest from the top of the hill. However, the police and SOG forces started firing at the six coming down, apparently in the enthusiasm that they had successfully reached the hide-out of the prominent leader of the Maoist movement in Odisha, Sabyasachi Panda.

Five of the six, Aiwo Padra, Sanatan Mallick, Ghasiram Baghsingh, Shyamson Majhi, Laxmikanta Nayak were killed while one person, Junesh Diggall, of the same village as Laxmikanta Nayak, managed to cover himself behind a rock and didn't die. After the firing subsided, he was found and shown as a captured alive Maoist and the five others as Maoists killed in an encounter.

All were social and political activists in their own way, questioning corruption practices in their gram panchayat area, standing in the panchayat elections, conducting pastoral activities in the area, supporting a struggle for seeking

justice for illegal detention by the forces, building peace in the 2008 riot-affected areas. It seems that this proactive and leadership qualities of theirs were what brought them to the attention of the Maoists, and therefore they were called for the meeting.

Contrary to the police version that indiscriminate firing was started by the other side and that they had to fire only to protect their lives, the fact-finding team inferred that there was no provocation from the side of the Maoists as no information regarding any injury to any police personnel could be ascertained from the police station. The fact-finding report of the Odisha Savodaya Samaj also denotes that the Bhaliaguda villagers who were compelled to carry the corpses did not notice any member of police force injured. Trigger-happy security personnel, contrary to all human rights regulations that even combatants are to be shot only on their legs, seem to have showered the men with bullets. All six unarmed men dressed in civilian clothes were the target of the firing ~~from the side of the operation party.~~

End Notes :

¹ Nayak, Nihar (2005) Maoists in Orissa Growing Tentacles and a Dormant State

Available at <http://www.satp.org/satporgtp/publication/faultlines/volume17/nihar.htm>

² <http://www.frontlineonnet.com/fl2312/stories/20060630006612700.htm>

³ *Times of India* News Service – March 3, 2013.

⁴ http://www.telegraphindia.com/1110505/jsp/orissa/story_13939323.jsp

The Chief Minister's speech details this further – “The Orissa Special Striking Force (OSSF) has been created by inducting ex-servicemen for guarding Police Stations, jails and other vulnerable locations. 5600 tribal youths have been recruited as Special Police Officers (SPOs) in 19 Naxalite affected districts for strengthening the anti-extremist capability of District Police. We have decided to absorb them in regular posts of Constables after they serve for a period of three years. District Volunteer Force (DVF) units have been created in extremist affected districts to carry out intelligence based operations.” This is available at <http://www.orissadiary.com/CurrentNews.asp?id=24346>.

⁵ Orissa State Development Report, 2001 Chapter 8 – Poverty and Living Conditions

⁶ Human Development Report 2004

Father and son: The arrest of Dandapani and Sangram Mohanty

Dandapani Mohanty is a well known name in Odisha. Regarded as a social rights activist he had been instrumental in negotiating the release of V. Krishna, collector, district Malkangiri, and two Italian tourists in Kandhamal-Ganjam region, when they were abducted by Maoist in 2011 and 2012 respectively. He was an interlocutor on both occasions on behalf of the Odisha government.

Mohanty had been consistent in campaigning against the undemocratic attitude of the Odisha government and highlighting its repressive acts against the tribals and other marginalised people of the state.

After the said encounter of five innocent tribals and caste men by the Odisha people, he had become active in publicizing these encounters and become a thorn on the state and police's side.

On December 5, 2012, Dandapani Mohanty's son Sangram Mohanty was said to have been arrested while supplying arms, food materials, etc., to another alleged Maoist, Kailash Mandal, in the area of Mohana Police Station.

During our fact-finding we spoke to Sangram's family members and people he had met on the morning of his arrest and concluded that it was a fabricated arrest, as shown by the following facts:

Virendra Mallick is a driver staying in Sangram's house in Behrampur. At about 8:30 a.m., Virendra and Sangram had gone to the mechanic's garage together on Sangram's bike where the body of the family-owned truck (OR 07 V 6991) was being repaired. Leaving the driver at the first garage, Sangram went to another garage where a second truck (OR 07 V 7991) was being painted. At a quarter past 9, he came back to see what the status at the first garage was and then told his driver to stay there while he would have a bath and come back.

At about 1 o'clock in the afternoon, a mutton shop owner came to Sangram's house to enquire about his whereabouts and informed the family that he had seen plainclothes policemen in a Bolero forcefully push him into the vehicle and drive off with his bike. This was then confirmed by more people in the area but people didn't want their identities to be revealed, fearing the police. Apparently, Sangram was picked up in Behrampur itself, soon after he left the first garage, before reaching home.

Dandapani Mohanty filed an FIR at 3 p.m. in Baidyanath Police Station, Berhampur. Soon after filing of the report, at about 4:30 p.m., Sangram was shown to have been picked up while supplying arms and food materials to Maoists at a short distance on the main highway near the Mohana Police Station

According to his family, Sangram was a contractor, and also pursuing law, and his last LLM exam was on December 6. He was also contemplating joining mainstream politics.

Kailash Mandal (Village Baharapda, Chandragiri Police Station, Gajapati
Cont. on next page ...

District) had been in police custody but not shown arrested since December 2. Information regarding this illegal detention had been sent out to journalists and senior police functionaries on December 3 itself. In spite of this, the police have blatantly used him as the accomplice with Sangram in the fabricated arrest on December 5.

The arrest of Sangram Mohanty did not deter Dandapani Mohanty in his fight against the terror tactics of the state govt. Along with his legal battle for his son, he continued exposing and publicizing the repressive measures adopted by the state.

On 8th February 2013, Dandapani was illegally picked up by plainclothes policemen *without* any arrest warrant. He was picked up at lunch time from outside his home and shown as arrested in R Udayagiri. The cases lodged against him are related to incidents that took place over three years ago in 2009 and 2010. Finally, in order to delay his release, large numbers of cases, including UAPA ones, have been foisted on him. This clearly shows that Odisha police has shown its powers to silence the voice of dissent.

CONCLUSION

From media reports and the fact-finding report of the Odisha Sarvodaya Samiti, it clearly appears that the state has been busy hushing up these fake encounters.

- Four young boys were picked up four days later (on November 18, 2012) from the Bhaliaguda village – Kalia Mallick, Jala Mallick, Bulu Mallick and Surendra Mallick. These four boys were forcibly taken from the village to the encounter site and their hands and feet were tied up. They are being presented as Maoists who were part of the encounter incident and picked up from the deep forests. The police claim that they are sharing information about the injuries suffered by Sabyasachi Panda, Nikita, Sagar and others in the Odisha Maovadi Party during

the operations on November 14.

- Information has been widely given out that the injured Maoists should not be treated at any health facility. Further press notes by the police said that there was news that the injured Maoists are in a bad state with developing septicemia, etc.
- In the days following the encounter, the police launched what is purported to be the 'biggest-ever manhunt', involving about 1000 personnel from the CRPF, the state's own elite anti-Maoist outfit SOG and armed police from four districts, to catch Panda. The massive combing operation, aided by a Pawan Hans helicopter, had to have some saving grace and, for these, the fabricated cases against people have continued.

DEMANDS

1. Initiate an enquiry into the encounter deaths - The people of the area and the families want justice. They are angry with the state, and the nation has to respond to how these incidents can carry on in a democratic country. The state is accountable to the poorest. It cannot get away with this killing and keep carrying on with more such. The CBI should enquire into these encounter deaths and respond in a timely manner.

2. All families should be adequately compensated - All killed were not carrying out any anti-state activity. They were the primary bread-earners of their families. Samasan Majhi's wife is now left with two teenage sons, one of whom is mentally challenged. Ghasiram Bagsingh supported a family of 11 members, including five unmarried sisters, who now face an uncertain future. His mother and wife don't know how they should plan their life ahead. Aiwa Padra had dreams for his son and was staying in Brahmanigam so that he could study at a better school there. Sanatan Mallick's wife is an ASHA worker, which means she has no regular income, and she fears for the future of her three-year-old and one-year-old daughters. Following Laxmikanta Nayak's death, his wife has been forced to go to Bhubaneswar, where in her middle age, she faces the prospect of working as a maid servant.

The state should adequately compensate them to be able to meet their basic survival needs at the least.

3. Criminal prosecution for murder

should be initiated against the anti-Naxal operation party - Subedar Jeetendra Kumar Dehury of 3rd SS Battalion, Ganjam and Mrunal Kalo, S.I. of Police, Mohana P.S. heading the anti-Naxal operation party should be criminally prosecuted for murder and tried under the *Prevention of Atrocities against SC/STs Act* for their crimes against adivasis and dalits. In dereliction of their duties, they have fired upon people without any provocation.

4. Release innocent adivasis and dalits - Jugesh Diggal, Kalu Mallick, Sangram Mohanty and many others are tribals and dalits living in the area and being picked up by the state only to spread fear in the area and to justify the expenses being done on the security forces in the area. There is no real crime committed by them. People languish in jails for years on end. Cases drag on because the prosecution has no case besides hearsay. The government should review the situations of arrest and the case proceedings of all under-trials picked up as Maoist links and release people, as had also been promised during the release of the abducted Malkangiri collector in 2011.

5. The state must withdraw forces and stop waging a war against its own people - The Indian government should stop Operation Green Hunt waged against adivasis and other citizens in the name of Maoism and sincerely try for dialogue to settle their legitimate demands and differences on the issue of development.

About CDRO

The Coordination of Democratic Rights Organisations (CDRO), formed in August 2007, is a coalition of twenty civil and democratic rights organizations from across India. The CDRO arose in the context of the violent state repression of people's movements in India as well as the arrest of democratic rights activists. The broad range of campaigns and issues that the CDRO has engaged with include, the repeal of brutal laws such as the UAPA, the MCOCA, the Armed Forces Special Powers Act (AFSPA) and the Chhattisgarh Public Security Act, the arbitrary detention of political prisoners across jails in India, the increasing use of extra judicial, state-sponsored armed gangs such as the COBRAs in Andhra Pradesh and the Salwa Judum in Chhattisgarh to combat the Maoist insurgency, death penalties by the Indian state, and narco analysis as a form of police torture.

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