

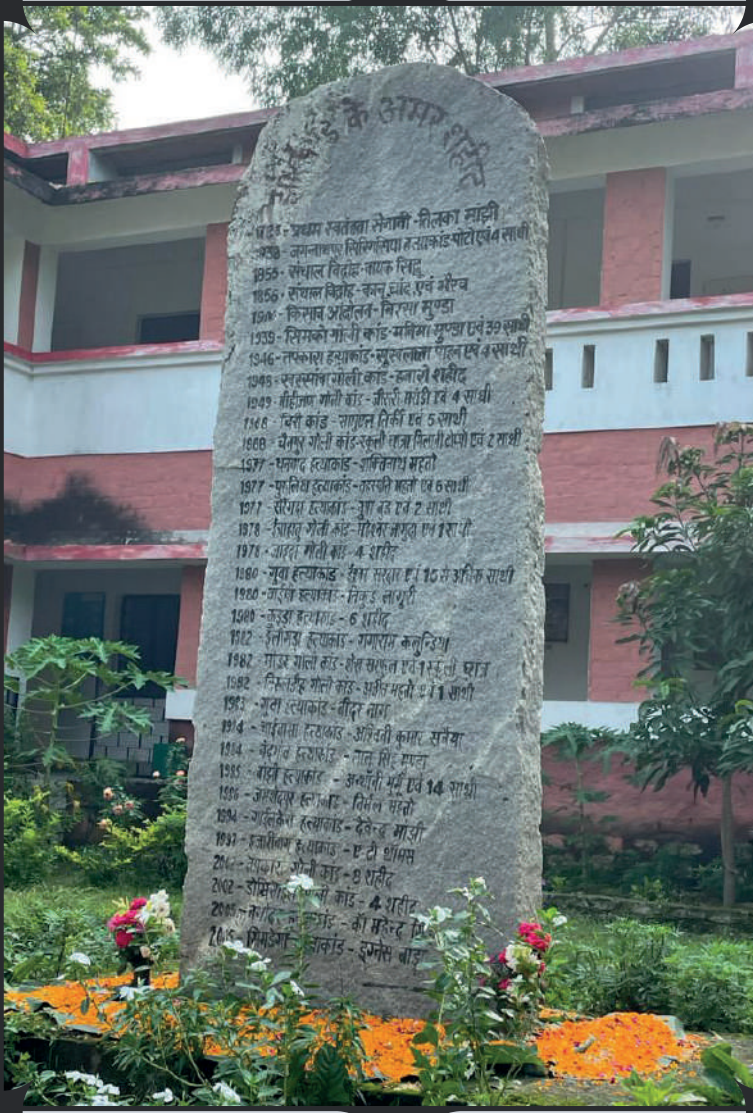


I AM NOT
A SILENT SPECTATOR

Why Truth has become so bitter, Dissent so intolerable, Justice so out of reach

STAN SWAMY

An Autobiographical Fragment, Memory and Reflection



1923 - प्रथम स्वतंत्रता सेनानी - नीलकांठ झाड़ी
 1923 - जनाभारत सिंगिया हत्याकांड पोस्टो एवं 4 साथी
 1955 - संपाल विद्रोह - ताक सिंह
 1956 - रोचल विद्रोह - बनू झांड एवं श्रीच
 1958 - विमल अदालत - निरसा सुग्डा
 1939 - सिमको गौरी कांड - यमिना सुग्डा एवं 39 साथी
 1946 - तत्कालीन हत्याकांड - सुदलाला गहल एवं 6 साथी
 1949 - सुदलाला गौरी कांड - झारो शहीद
 1949 - गौरीगंज गौरी कांड - जीसी झांडी एवं 4 साथी
 1949 - चिनो कांड - सागहन ठिकी एवं 5 साथी
 1968 - येमपुर गौरी कांड - रानी राजा पितानी दोनों एवं 2 साथी
 1977 - धनद हत्याकांड - जयकिशोर भट्टो
 1977 - सुलिय हत्याकांड - लखी भली एवं 6 साथी
 1977 - सैयस हत्याकांड - गुा बंद एवं 2 साथी
 1978 - विमल गौरी कांड - गोरेश मजुठ एवं 1 साथी
 1978 - जयदा गौरी कांड - 4 शहीद
 1980 - गुा हत्याकांड - रंग सराव एवं 10 में उनीक साथी
 1980 - जयदा हत्याकांड - निरंड साथी
 1980 - कडुडा हत्याकांड - 6 शहीद
 1982 - ईतानडा हत्याकांड - गगाराम कलुडिया
 1982 - गौड गाल कांड - शैल सुगत एवं 1 शहीदो घात
 1982 - निरंड गौरी कांड - शक्ति मदी एवं 1 साथी
 1983 - गुा हत्याकांड - शैल नामा
 1984 - सईनासा हत्याकांड - अश्विनी कामा सनेया
 1984 - वेदा हत्याकांड - नाम सिंह सुग्डा
 1985 - बंद हत्याकांड - अश्विनी मदी एवं 14 साथी
 1986 - जयदा हत्याकांड - विमल भट्टो
 1984 - गुरुकिंग हत्याकांड - देवेव गौरी
 1991 - हजारीगंज हत्याकांड - ए टी धामस
 2011 - गौरीगंज गौरी कांड - 8 शहीद
 2012 - डोमिगोसा गौरी कांड - 4 शहीद
 2015 - गौरीगंज हत्याकांड - की भट्टो एवं 1 साथी
 2015 - गौरीगंज हत्याकांड - इम्रेस बांड

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*Why Truth has become so bitter, Dissent so intolerable
Justice so out of reach*

Stan Swamy

An autobiographical fragment, memory and reflection

INDIAN SOCIAL INSTITUTE

Bangalore

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(For Private Circulation only)

First published in 2021

Published by

INDIAN SOCIAL INSTITUTE

24 Benson Road, Benson Town

Bangalore - 560 046

Email: dirisibl@gmail.com

Web: www.isibangalore.com

Printed at

OPTIM Graphics Institute

The Sacred Heart Brothers, Geddalahalli

Kothanur P.O., Bangalore - 560 077

Mobile: +91 94490 61033

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FOREWORD

A flame that burns bright

It was an unexpected honour to be asked to write the foreword for Stan's memoirs. Stan Swamy is one of the treasures of this country and one of my personal heroes.

It is because of people like him who, even in his 80's, have not lost hope - despite multiple betrayals of his dreams - that people still believe in the Constitution. A tall thin man with a spine of steel, there is something both wise and childlike about Stan, and this is reflected in these essays. Above all, what the essays reveal, is Stan's enormous compassion and courage, and the way he lives his faith.

Some years ago, Stan set up a research and training centre in Namkum on the outskirts of Ranchi called *Bagaicha*. As you come in you see a big stone slab in the centre, on which is inscribed all the struggles that have taken place in Jharkhand for over two hundred years. This *Pathalgadi* (or stone slab inscription) predates the *Pathalgadi* movement that Stan writes about, but it shows Stan's deep investment in his adopted home, Jharkhand. As he writes in the last essay of this volume, there is a tradition among adivasis, that when someone departs the earth, she or he is invited back to dwell in the house and be a companion to the still living. In life or death, Stan is a companion and guide to the people in Jharkhand and beyond, a flag bearer for justice wherever he is.

Ever since the Jesuits arrived in India in 1542, they have culturally adapted their faith to the land, and provided invaluable service, especially in the field of education. But even among this selfless mission, there were some who ventured further afield and practiced their faith by serving people, especially the most marginal. But this

is done through meticulous research and documentation, not in a superficial manner. The story of how Stan and his comrades at the Indian Social Institute Training Centre in Bangalore summarized and circulated Paolo Freire's *Pedagogy of the Oppressed*, tried to ensure that land was given to the tiller, and reached out to a wide variety of social movements, even in the face of opposition from powerful elements in the Church – is a testimony to the power of his faith. The Jesuits have been a major source of education for democracy in India, and India owes a great deal to them.

Why is the Indian state so petrified of an 80-year old Jesuit called Stan Swamy – so much that they sent police, twice, all the way from Pune to raid his room and confiscate his bare belongings? First, the central BJP government, acting with the Pune police, tried to implicate him in the Bhima-Koregaon case which, is clear to any thinking person, is a trumped-up effort to silence a well-known human rights activist. In 2018, the BJP government in Jharkhand, filed an FIR against Stan and others for a Facebook post. A year and a half later, they tried to arrest him, and also claimed that he was absconding, when of course he was doing no such thing.

The government is scared because Stan has courage and is not scared to raise his voice against injustice wherever he sees it in any form. And, of all the issues that has affected Adivasi India in the last decade or so, it is the 'mass jailing of people', allegedly for supporting Maoists. As Stan points out, when an entire young generation is in jail, the impact on society is devastating. Stan, with his colleagues, conducted meticulous and innovative research, where they met 102 under trials in their homes, and found that 97 per cent of those arrested, had zero connection with the Maoists. In January 2018, a PIL filed by Stan on this issue was

admitted in the Jharkhand High Court, with the Court ordering the government to furnish information on the undertrials.

It is, indeed, too much of a co-incidence that soon after his PIL, the state has gone after Stan with a vengeance. Where is the level playing field that the law promises?

Stan writes movingly of dispossession, due to large projects and the struggles that people have waged to resist this; he writes of migration and the losses to individuals and communities; he bears witness to the sufferings and resilience of the people, of whom he has now, become a part. This collection of short essays – autobiographical fragment, memory and reflection – is a gift from Stan to all of us.

Dr. Nandini Sundar

Professor of Sociology

Delhi University

PROLOGUE

‘Why truth has become so bitter, dissent so intolerable, justice so out of reach?’ because truth has become very bitter to those in power and position, dissent, so unpalatable to the ruling elite, justice, so out of reach to the powerless, marginalised, deprived people. Yet, truth must be spoken, right to dissent must be upheld, and justice must reach the doorsteps of the poor. I am not a silent spectator.

This booklet is *not* my autobiography. It is rather a collation of some glimpses/episodes from my life that somehow made a difference for me, and possibly for my confrères, colleagues and the people with whom I have shared my life. Some episodes were turning points in my life, some opened new vistas of involvement, some raised question marks on what I was doing, some brought in new colleagues/comrades into my life, some genuine expressions of solidarity from all and sundry with the efforts, tribulations, harassments I have gone through in the process of my humble efforts in quest of truth and justice.

As I am reaching the fag end of my sojourn on mother earth, some well-meaning friends have been asking me to put in writing my reflections on the events, persons, the vision and mission I have pursued and their fructification or otherwise. I warmly accepted my friends’ suggestion, but at the same time, was intrigued as to when and where I would find the leisure, conducive atmosphere, supportive friends and mental mood to sit quietly and do the writing. Months and years came and went, and I was still looking for the opportune time!

Now that opportune time came into my hands from the most unexpected quarters! I and some of my colleagues were accused by

the Jharkhand police of instigating violence during the *Pathalgadi* movement in Khunti district in mid-2018. Our lawyers told us that the government had no real case against us, and it did not even merit getting anticipatory bail. So, we thought the case was dead and buried. But lo and behold, after a good year-and-a-half, when the present national ruling party came back to power, a Jharkhand court suddenly issued *warrants of arrest* on 19 June 2019 against me and four other friends, of abetting violence in Khunti.

My friends advised me to take some time off from the scene, so as to prepare a case in Jharkhand High Court and challenge the state government. This also coincided with my custom of visiting every four or five years, my family-folks, friends/comrades of yester-years in the three southern states (Tamil Nadu, Kerala and Karnataka). I also had some long-pending health related needs to be attended to and this sojourn made that possible too.

Some friends kindly made available the needed facilities for writing, and I wrote intermittently between my trips to different places. Finally, I think I've completed the 'labour of love' my friends entrusted to me. It may be taken for what it is worth.

Stan Swamy
Bagaicha, Ranchi
Jharkhand

FROM THE PUBLISHER

Dear friends,

With profound gratitude to God for the gift of life to Stan, Indian Social Institute, Bangalore (ISI-B) brings out this publication, which is titled as, 'I am not a silent spectator'. In 2019, when Stan stayed at the Institute, he proposed that he would be collating all his write ups and desired that ISI-B, where he worked for 16 years and as its Director for 11 years, publish it. I had gladly agreed. He prepared the draft while he was in ISI Bangalore and Dr. Ambedkar Cultural Academy, Madurai from June to December 2019. Later, Fr. P. M. Antony SJ, the current Director of Bagaicha helped Stan to edit it.

Stan has asked Prof. Nandini Sundar to pen a foreword and gave me the final draft by July 2020. This book should have been in the public domain by August 2020. But, by the end of July 2020, the National Investigation Agency began its interrogation. Stan went through 15 hours of questioning. Though he desired to publish it after the interrogation, later, in consultation with his friends, he agreed to postpone the publication.

After the arrest on 8 October 2020, while he was in Taloja prison, Mumbai, he reminded me a couple of times about the publication. I suggested to him that it might be better to publish it once he was on bail. He agreed. As the bail process was getting delayed, again he reminded me while he was in the Holy Family Hospital, but this time left it to me by saying, "You know the right time to publish. I know you will publish it".

I did not know that I would be able to bring the song of the caged bird only after his demise. On the one hand, I feel sad that I could not fulfill his desire when he was alive. On the other hand, I feel grateful

that Stan has passed on his memories and rich experiences through this publication. Three chapters are added subsequently. Glimpse 12 captures the Interrogation of Fr. Stan Swamy by the National Investigation Agency. Glimpse 13, If and when I am arrested was written after the interrogation and Glimpse 14, Prison diary and poems captures the life of Stan in Taloja prison. The prison diary is prepared mostly from his letters to Fr. David Solomon SJ, and me and information exchanged over phone calls from the prison. This memoir very well captures the inner moments of Stan, his struggles and hopes and his works in various places. As a Jesuit and Human Rights Adivasi activist, he truly believed that this world can be transformed. He taught all of us the meaning of life. I believe that anyone who reads this memoir will be inspired to contribute their might in accompanying the Adivasis, Dalits and other marginalized communities.

I thank the present and former Jesuits of Bagaicha, especially, Fr. David Solomon SJ, (Solo) the former Director, Fr. Sebastian Lakra SJ, Fr. P.M. Antony SJ, Fr. Peter Martin SJ, Fr. Stany D'Souza SJ, Fr. Jerome Cutinha SJ, and Fr. Frazer Mascarenhas SJ who journeyed with Stan. I am grateful to Optim designers and printers, Bangalore for their timely support. I express my gratitude to Fr. Jerry Rosario SJ, Fr. John Messi SJ and New Leader Publishing House for preparing the cover page in a short duration. I would like to acknowledge the support I received from Mr. Shujayathulla, programme staff of ISI-B and Ms. Harshita, interning with ISI-B in bringing out this publication.

This memoir is Stan's final gift to all of us. May he continue to live in our hearts and may his life, mission and death inspire us!

Dr. Joseph Xavier SJ

Director

Indian Social Institute, Bangalore

1

Old faces, new hopes: The short long spell at Indian Social Institute, Bangalore

June 1975, '*National Emergency*' was declared. Thousands of political leaders, intellectuals, activists were either thrown behind bars or held under house-arrest. The media was brought to its knees. Only a couple of newspapers had the courage to leave their editorial column blank as a sign of protest. Critical-minded intellectuals, writers, authors were anxiously awaiting the midnight-knock at their door. Since dissent to Emergency could not be expressed openly, confidential communications about what was happening in different parts of the country were passed from hand to hand in cyclostyled sheets. An atmosphere of fear pervaded the whole society. People talked in whispers. The only 'positive outcomes' were that workers and officials in government departments started to report for duty punctually and trains started to run on time!

Justification for the declaration of the Emergency was announced through, what was called '*Twenty Points Programme*'. The very first point

was '*Land to the tiller*'. I, Stan Swamy, had just taken charge of Indian Social Institute Training Centre (ISI-TC), Bangalore. It was the training organ of the Indian Social Institute, New Delhi. My colleagues, apart from their academic qualifications, were persons who had emerged from Trade and Labour Union backgrounds. We realized that times had changed. Militant youth were walking out of universities calling the university-education irrelevant and searching for meaningful alternatives. The very respectable and charismatic leader Jay Prakash Narayan of Bihar gave a call for civil disobedience. College students in their thousands came out on the streets looking for a leader who would lead and guide them in their search for new meanings.

The ISI-TC, started in the 1950s, had been conducting training sessions of various durations to women and men involved in socio-economic development works. The thrust was to 'equip them with skills' in agriculture, animal husbandry, cooperatives, community development and so on. But already by the 1970s, the unavoidable realization began to dawn, that so-called 'development' was eluding those who most needed it. This was so because it was all "top-down". The justification was that 'development' would "trickle-down". The idea was to encourage wealth creation on top, as in an overhead water tank, so that it would flow down naturally. Sadly, the poor are looking up all the time but hardly anything has trickled down to them.

The Pedagogy of the Oppressed

As this "trickle-down" ideology engulfed the countries of the Global South (Central and Latin America, Africa and Asia), the philosophy enunciated by Paulo Freire in his small booklet *The Pedagogy of the Oppressed* began to ring a bell to the oppressed. *The Pedagogy of the Oppressed* advocated, that if the oppressed would be *conscientised* (awakened) about their situation, the contradictions prevalent in their society and the mechanisms of exploitation and

oppression, they would rise up and devise ways of freeing themselves from oppression. As there was no Indian edition of the book, we summarized the book into a few pages, photocopied it and shared it among all the activists who were in touch with ISI, Bangalore. Our friends in the field translated it in their local vernaculars, and through informal education, we began delivering the message to the deprived people in our areas of involvement. A new enthusiasm on the part of people became visible.

‘Socio-political Analysis’... ripple becomes wave...

Within this scenario, on one fine morning in the early 1970s, a group of students who had left their professional colleges walked into ISI-TC and said to the director, “Please teach us Marxism”! It came as a wakening call to us, the teaching staff, and we asked ourselves “How do we respond to this new demand of this new generation?” We introduced ‘socio-political analyses’ as the main thrust, followed by methods of mobilizing / organizing the exploited and oppressed masses to claim their due rights in society. As the appeal of Social Analysis caught on, we, the staff members were called upon, to give shorter courses here, there and everywhere. We did not shy away from acknowledging that the content of our social analysis was based on the Marxian tools of analysis.

‘Land to the tiller’ imbroglio: Well-intended policy sacrificed at the altar of class-power

As ISI-TC, together, with several other individuals, groups and organizations joined protests and demonstrations against the Emergency in whatever way possible, we almost accidentally came across a situation in which the implementation of the government’s ‘land to the tiller’ policy was called for. In a small village, at a stone’s throw from the north of Bangalore city, three landlords owned about

300 acres of land and the rest of the village, about 30 families, were the tenants (the actual tillers) of the land. They had been the actual cultivators of all the land for generations. If anybody had the right to become owners, these tenant-families had that right. We did a brief study of the situation, contacted the tenants quietly and impressed upon them their rights. A local English daily published the findings of our study titled '*New awakening in sleepy hamlet*'. Immediately, the landlords breathed anger at the tenants and at ISI. However, there was a silver lining... the Deputy Commissioner of Bangalore district announced that he would personally supervise the distribution of land-titles to the tenants. He went straight to the village, ordered the block-level officials to be present with all land-records of the village, gathered the tenants and the landlords, and went from plot to plot and verified the real 'cultivator' of each plot. He directed the land-related officials to process the paperwork promptly. The tenants and their families were jumping with joy.

Hopes of tenants becomes a mirage...

The three landlords, who were powerful persons with political influence, started to pull strings at higher levels where the poor tenants could not reach. They filed a case in Karnataka High Court accusing the tenants of false claims. They produced papers and documents, whereas all that the tenants could produce were the electricity bills they had paid for pumping water to their fields. The HC in its 'wisdom' (!) gave its verdict in favour of the landlords. The landlords went even further and pulled strings at the highest levels. The Deputy Commissioner who had seriously taken up the implementation of the policy - 'land to the tiller' – was removed from his post instantly with the consolation prize of being made the state commissioner of Fisheries Department. He was sent to Australia for training in fisheries management. **A thorn removed from the flesh of the ruling class!**

In this painful scenario, a few local parish Catholic priests who were in good relationship with the landlords accused ISI-TC, and me in particular, of plotting to divide the local church. The Diocesan authorities asked for my removal from Bangalore. Fortunately, the Jesuit superiors stood in solidarity with me and ISI and declined to oblige the demand of the local church authorities.

Thus, ended the tragic pretence of the government to give land to the tiller

Spontaneous screening process... as a result of introducing a clearly Marxian approach to the understanding of the structures and functioning of society, some trepidations started to be felt among those groups and organizations which imbibed traditional reservations about Marxism as advocating ‘atheism’. Such groups, mostly religious, gradually stopped sending participants to our training programme. Nevertheless, other people’s movements, people’s organizations, left-parties-related mass fronts started to respond to our approach in a more positive manner. That natural screening process of participants was indeed a welcome development.

Reaching a broader audience through publication... more and more activists asked us to give them solid material in print form which they could take to their colleagues in the field. So we, the teaching staff, divided the topics among ourselves and other close colleagues and published small booklets on the salient aspects of Social Analysis. Our publications were well received by activists, although some religious circles had some heart-aches about the whole tone being “Marxian”, even to the extent of questioning if ISI was still a Jesuit institute or if it had become a Marxist centre! We thought of a strategy to counter this. We invited some prominent Christian theologians for a two-week reflection towards the end of the 1970s. We discussed with them the salient features of our

societal analysis. At the end of the session, the theologians issued a joint statement, not only endorsing our analysis, but also calling it the need of the hour. That intervention of theologians put to rest, at least to some extent, the hesitations and doubts about our intentions and initiatives.

Who and how many are still swimming? Batch after batch of young people, especially from deprived communities, came and participated wholeheartedly in our training programme. They went back to their respective communities to educate and organize themselves. In their efforts to spread the knowledge of social analysis to their colleagues who were not in a position to come to ISI for the three-months course, they called on us to go to their places to give shorter sessions ranging from 10 – 15 days. Responding to their call, I myself went to different parts of the country as well as to the neighbouring countries of Bangladesh and Sri Lanka to give training sessions. Within India, the communities which drew me to them like a magnet were the Dalits in Tamil Nadu and the Adivasis of central India (present Jharkhand and Chhattisgarh). The Dalits in Tamil Nadu were becoming increasingly aware of the prevalent economic and social oppression. They had been drawn to the philosophy and way shown by Dr. B. R. Ambedkar and had started to mobilize themselves forming some significant movements. The Adivasi communities in central India were still reeling under the plunder of their natural resources and could not strike a clear way out. In Sri Lanka, the Tamil plantation workers in the central part of the country, who had been the victims of severe exploitation and oppression, called on me several times. I responded to their call by going to them every other year until the pogrom against Tamils began in 1983.

In all truth and humility, some sobering facts must be mentioned: (1) many of the participants of our training programme fell by the

wayside, mainly because they could not act independently from the system (religious, and NGOs); on the contrary, they were absorbed into these systems. However, a few of them have still played some role, to the extent possible; (2) many became active members in specific people's movements/organizations taking up specific issues of the people; (3) a few got out of the system and joined some left or socialist oriented parties and even braved jail sentences; (4) a few others laid down their lives for the cause of oppressed people with whom they had identified themselves in full measure.

Opting for a new horizon...! As the 1980s was drawing to a close, I felt that 15 years (1975 – 1990) was a long time to have spent in an institutional set up however vibrant and open-ended it might have been. Besides, the Adivasi societies who were my 'first love,' even before I came to ISI, were calling me to be with them in their struggle to claim their right to self-respect and dignity. *So, I bade farewell to 'old face' ISI and plunged into the world of Adivasis with 'new hopes'.*

2

Drawn as by a magnet: What brought me to the Jharkhandi Adivasi peoples?¹

The Indigenous Adivasi societies, blessed with abundant natural resources but unjustly deprived of them by the powers that be and reduced to poverty and powerlessness.

Hailing from Tamil Nadu and having become a Jesuit, I searched for a place and people to whom I could be of greater help. With the help of some friends, I came to know of the indigenous, Adivasi societies in central India – a place where despite its tremendous natural wealth, the people were very poor.

I arrived in the district of Singhbhum and was assigned to teach in an Adivasi boys' high school. I wanted to learn more about my students, and so I spent my holidays with them – going from one village to another, meeting people, speaking to them and getting to know them.

In one such village, I was staying at a student's home. It was a mango season. One morning, we were sitting in their courtyard, under a

mango tree laden with fruits. My student's father pointed to a few branches of the tree and asked his son to bring down the ripe fruits. The boy did as he was told, and we enjoyed some of the fruits together. But my attention was drawn to one particular branch of the tree, which was still laden with ripe mangoes. The boy's father had not asked him to pluck any fruit from that branch, and I thought that perhaps he had failed to notice it. So, I pointed to the branch and said, "There are plenty of ripe fruits on this branch. Why didn't you ask your son to pick those too?" He responded very simply, saying, "Those are fruits for the birds of the air. Nature has given freely, and so we share freely." This incident forced me to question my value system.

Later, I lived nearly two years in an interior Adivasi village of the *Ho* tribe – learning their language, understanding their life, economy and social setup. I, then, went for further studies and returned to work at the Indian Social Institute in Bangalore after which I returned to Jharkhand and its Adivasi societies in 1991.

What have I been doing in Jharkhand for the past several years?

I've been involved in the emergence of some of the people's movements that Jharkhand has witnessed over the last few decades. One of the main issues we see is that people are being displaced because they live on lands that are rich in mineral resources.

An Adivasi will say, "*Jaan denge, par zameen nahi denge!*" (We will give our lives but will not give our land!) However, it is not enough to say this. Hence, I have been working with young Adivasis to help them better understand the dynamics of the society at large and develop strategies to resist unjust displacement to save their lands.

A related issue is that young people who resist displacement of their land or their villages are accused of being Naxalites or

Maoists. They are thrown into jails. Since one can't really rely on the information that is reported in the media, we decided to conduct a study to understand the situation of under-trials in Jharkhand.

We visited 18 districts in the state and spoke to 102 alleged Naxalite Under-Trial Prisoners (UTPs). Ninety-seven percent of our respondents reiterated that they had not committed the crimes attributed to them by the police. Our study made it clear that, in the current system justice is beyond the means of most of those who have been falsely accused. Once they have been implicated in these cases, the threat of persecution in the form of harassment, intimidation or re-arrest persists even after accused persons are released on bail. The study also exposed the deliberate misuse of criminal justice procedures to repress alleged Naxalite under-trials in Jharkhand's jails.

We estimate that there are at least several hundred Adivasis and Dalits languishing in Jharkhand's jails; this is a large number of under-trials for a small state. Furthermore, it isn't just enough to learn about the reality of the situation. One has to act upon it as well. Hence, I filed a PIL against the Government of Jharkhand in the High Court of Jharkhand demanding the release of all under-trial prisoners on personal bond and the speeding up of the trial process. Consequently, the High Court ordered the state to furnish all the relevant information regarding UTPs from each and every jail in Jharkhand in January 2018.

It is now more than a year and the state is yet to provide the needed information about UTPs. There have been several hearings. Each time, the state would say that one or two UTPs have been released. But we have not received the information that we seek; and this is so, because the state has much to hide.

Where does the support for peoples' movements come from?

These movements have primarily been driven and supported by Adivasi communities themselves. Let me give you an example. In the

1990s, the government wanted to construct two large dams across the Koel and Karo rivers of Ranchi district. This project would have submerged 132 villages, 30,000 acres of agricultural land and 20,000 acres of forest land. Naturally, people opposed this.

The entire community organised itself under their traditional leadership. They took out massive rallies, walking for hours on end from village to village to organise the community against the construction of these dams. They conducted *aam-sabhas* (community meetings) in the 1990s. It is very interesting and instructive to know how these crusaders of the anti-displacement movement organise the community. Well, there's a particular beat of the drum that conveys a perceived threat to the community. When one village plays this beat, the neighbouring village hears it and repeats the same beat. This would then be heard by the next village and within a few hours, they would have conveyed the message to all affected villages. And on the very next day, the community would gather, and each person would have brought with them *ek mukkei chawal aur ek rupya* (a handful of rice and one rupee) as a contribution. This has been how the Adivasi villagers emerge together to advance a common cause and the community supports itself to resist displacement. They normally neither ask for nor accept any financial help from outside.

The Koel-Karo anti-displacement movement reached a climax on 2 February 2001, when the police opened fire at an *aam-sabha* in the village of Tapkara, where 5,000 people had gathered. Eight people were killed and many more were injured and made permanently handicapped. The state thought that this would frighten the Adivasis into abandoning their movement. On the contrary, it had the opposite effect – people said we've shed our blood; there was nothing more to lose and the movement became stronger.

Can it be said that things have been changing as a new wave of younger Adivasis comes to the fore?

There are many young Adivasis who have been educated and have good jobs, have built a house in Ranchi and send their children to English medium schools. However, most of them have severed ties with the villages they come from.

Many of those who have stayed back in the villages cannot stand up to and resist unjust displacement and dispossession. If they do, they are put in jail. Hence, it has always been a difficult choice for them. The young men say, “I cannot bear to stay back in the village and see my land being taken away. However, if I resist, I will be thrown into the jail. Let me instead leave this place, go elsewhere and earn some money for my family.”

This leads us to another situation: labour migration. Many young Adivasis are migrating, especially towards the southern states of the country. One of the main reasons for such large-scale migration is due to land and resources dispossession. Despite the fact that Jharkhand had protective laws meant to safeguard Adivasi land rights, such as, the Land Acquisition Act of 2013, for the entire country and the Chotanagpur and *Santhal Pargana Tenancy Acts*, specifically for Jharkhandis, a great deal of forcible land acquisition has taken place. When the youth stand up against forced land dispossession, they are putting themselves at risk of being arrested and imprisonment for years without trial.

But the young are still resisting

When one’s land and home are forcibly taken away, is anyone going to sit quietly? One would definitely stand up and resist. There is resistance. However, it has not been organised in such a way that the entire community stands up to protect its constitutional and

human rights. The sociocultural distinctiveness of an Adivasi society emerges from the specific mode of production it has devised for centuries based on its land, forest and other natural resources within its ethno-territory. If a community is dispossessed of these resources, its continued existence as a distinctive social group would certainly be in danger.

Hence, we have created the *Visthapan Virodhi Jan Vikas Andolan*, a people's movement against displacement.² While we have successfully fought some cases through people's mobilisation, we have also failed in others, because of the brutal repression of the state.

There are others who are doing this too; many good leaders have emerged among them. Take the case of Dayamani Barla. She is from the Munda Adivasi group and has played a heroic role in leading the community in the fight for people's land rights. When Arcelor Mittal wanted to set up a steel plant in Gumla – Khunti districts of Jharkhand state, the state government wrote off 12,000 acres of land without any consultation with the inhabitants of that land. Dayamani went from village to village, creating awareness about what was happening and leading campaigns against the displacement of Adivasis from their land.

When Arcelor Mittal realised that they could not acquire the land forcibly, they tried other means to hoodwink the people. Several fully equipped, brand new ambulances with doctors and nurses started making their way to these villages to offer free health services. The community knew exactly why this was happening. It sent them back packed. This is a very telling move for poor people who are in dire need of health services. Finally, Arcelor Mittal tried to negotiate them down from 12,000 acres to 800 acres. But the people refused to give them even an inch of land and eventually, Mittal had to leave the place.

3

Flowers don't bloom in a volcano: The laws and policies in favour of Adivasis remain mere showpieces, unimplemented

My 30-year journey with the Adivasi societies of central India started with an eye-opening insight into their life when I lived for nearly two years in an interior *Ho* Adivasi village in Singhbhum district of Jharkhand. Alone to begin with, and later with concerned friends, I enjoyed Adivasi hospitality. I learnt their *Ho* language and spent a lot of time with the youth, most of whom could not have education beyond primary or middle school-level. Their socio-cultural values of equality, primacy of community over family and individual, mutual co-operation, readiness to share without counting, closeness to nature and the practice of consensus decision-making came as new revelations to me and my friends. I realised more than ever how the present capitalist order stands in direct contrast to Indigenous values insofar as inequality is the hallmark of success in life, cut-throat competition is the order of the day, sharing is a bad word, individual

achievement is the ultimate goal and majority versus minority is the sign of democracy.

But rude shock awaited me when I saw how unscrupulous outsider-traders exploited and cheated the simple Adivasi villagers when they went to local markets/bazaars to exchange their forest produce for items they needed such as clothing and household utensils. Even ruder was the shock to witness how government bureaucrats at every level looked down upon Adivasis and treated them with scant regard bordering contempt.

I took a square look at myself and asked myself if I should not commit the rest of my life for the cause of Adivasi societies in such a way that my life would make even a little bit of difference in their search/struggle for self-respect and dignity.

The Laws in favour of the Adivasi are mere showpieces not meant to be implemented

I started to study the different laws enacted in favour of the Adivasi:

A saying goes like this: “Written laws are like a spider-web; it will trap the poor and the weak, but it will be torn to pieces by the rich and powerful.” That, in short, has been the story of the indigenous Adivasi societies in our country. True, some laws have been enacted apparently in favour of Adivasis, however, simultaneously, enough loop-holes are provided so that these laws do not take effect. It will be my task to establish this truth in the following pages.

1. The Plight of Adivasis as observed by the Supreme Court of India

Let us start with what the Supreme Court of India has to say about Adivasis (India’s indigenous people). In a recent path-breaking judgment concerning the humiliation of a young Adivasi woman by the so-called “upper caste” people, the Court had observed:

Despite all our tremendous diversity, the Constitution gives equal respect to all communities, sects, lingual and ethnic groups, etc., in the country. The Constitution guarantees to all citizens freedom of speech (Article 19), freedom of religion (Article 25), equality (Articles 14 to 17), liberty (Article 21), etc. However, giving formal equality to all groups or communities in India would not result in genuine equality. The historically disadvantaged groups must be given special protection and help so that they can be uplifted from their poverty and low social status. It is for this reason that special provisions have been made in our Constitution in Articles 15 (4), 15 (5), 16 (4), 16 (4A), 46, etc., for the upliftment of these groups. Among these disadvantaged groups, the most disadvantaged and marginalized in India are the Adivasis (STs), who, as already mentioned, are the descendants of the original inhabitants of India, and are the most marginalized and living in terrible poverty with high rates of illiteracy, disease, early mortality etc. Hence, it is the duty of all people who love our country to see that no harm is done to the Scheduled Tribes and that they are given all help to bring them up in their economic and social status, since they have been victimized for thousands of years by terrible oppression and atrocities. The mentality of our countrymen towards these tribals must change, and they must be given the respect they deserve as the original inhabitants of India.

The injustice done to the tribal people of India is a shameful chapter in our country's history. The tribals were called 'rakshas' (demons), 'asuras', and what not. They were slaughtered in large numbers, and the survivors and their descendants were degraded, humiliated, and all kinds of atrocities inflicted on them for centuries. They were deprived of their lands, and pushed into forests and hills where they eke out a miserable existence of poverty, illiteracy, disease, etc. And now efforts are being made by some people to deprive them even of

their forest and hill land where they are living, and the forest produce on which they survive.³

2. A brief historical outline of Adivasi societies' deprivation

After 1947, the 'Adivasis' came to be known as 'Scheduled Tribes.' Since Independence, one-fourth of their population got displaced in large numbers in the name of national development. The alienation of their land has been estimated as some 22 lakh acres. Their forests and mineral resources have been taken away from them.⁴

Two types of policies were followed by the Indian Capitalist Ruling Class. Between the year 1950 and 1975, the policy followed by the Government might be summarized as 'From Ethnicity to Developmentalism.' People were told that what they needed was to forget about their ethnic aspirations. Instead, they should develop themselves economically. All kinds of schemes/projects were drawn up and a lot of money was spent. However, the real beneficiaries of such spending were non-Adivasi businessmen, contractors and bureaucrats. Adivasi societies slowly began to realise how they were being cheated.

From the year 1975 up to now, the policy followed can be summarized as 'From Developmentalism to Regionalism.' Having failed the people in terms of development, the ruling class began telling them that they can develop themselves better if they have more autonomy, first as a region (Jharkhand Area Autonomous Council). Having failed in that too, promises of development were made in the name of a separate state (Jharkhand state). We shall now take the state of Jharkhand for further analysis.

What to expect of the state of Jharkhand in the future? During 2014-2019, while being ruled by the BJP-combine, there were more fears than hopes. It could turn out to have been ruled for the benefit

of the direct exploiters of Jharkhandi Adivasi societies. Besides, as the government represented the Hindutva forces on the social front and capitalist class at the economic front, there were systematic efforts to polarize Adivasi society on the one hand and exploit the rich mineral resources on the other. Assimilation of Jharkhandi Adivasis into the capitalist mainstream could be the overall thrust. The mineral and forest resources would be very much desired. Whereas Adivasi societies, beneath whose feet are all these resources, would not be desired. If their land and resources are taken away from them, Adivasi societies, as culturally distinct social groups, would gradually vanish. Those who are left behind might be made into landless wage-labourers as it has already been happening. Many of them would be forced to go out of Jharkhand to other states, far and near, as migrant labourers. This would be the reality if Jharkhandi Adivasis/Moolvasis/Dalits, if they fail to emerge as a strong united force to assert their rights and devise ways and means, not just to survive but to thrive as a united political force.

In short, Jharkhandi Adivasis' history can be described as — original masters of Land and Nature — people of communitarian ownership and use of land through *khuntkatti* system — tenants in a feudal tributary state — individual *pattadars* in a capitalist order — and lastly, deprived of land and other sources of sustenance, landless wage labourers.

3. Constitutional and legal protection to Adivasis and the Reality

3.1. The Vth Schedule of the Indian Constitution⁵

The Vth Schedule of the Indian Constitution clearly stipulates that a 'Tribes Advisory Council' (TAC) should be composed solely of members from Adivasi communities who will advise the Governor of the state about any and everything concerning the protection, well-being and development of the Adivasi societies in the state.

The Governor is the constitutional custodian of Adivasis. He/she can make laws to this effect on his/her own. He/she can also annul any other law, enacted by the parliament or state assembly, always keeping in mind the welfare of the Adivasi societies. This provision is applicable in the nine states of central India where Adivasis form a significant population.

Whereas the reality is that, in none of the states, during all these nearly seven decades, has any state Governor ever used his/her constitutional discretionary powers to reach out to the Adivasi societies, proffering the excuse that they have to work in harmony with the elected Government of the concerned state. The meeting of the TAC takes place rarely these days. It is convened and presided over by the Chief Minister of the state. However, all these have been controlled by the ruling party of the state. TAC has, thus, been reduced to a toothless body. Verily, it is a constitutional fraud meted out to the Adivasis of the state.

3.2. The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989⁶

This Act was enacted by Indian Parliament to forestall the increasing atrocities on Adivasis and Dalits by non-ST/SC individuals/organizations/government officials, etc. The intention of this Act was good. Chapter II of the Act lists a detailed description of Offences of Atrocities. Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe:

- i. forces a member of a Scheduled Caste or a Scheduled Tribe to drink or eat any inedible or obnoxious substance;
- ii. acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste, or a Scheduled Tribe by dumping excreta,

- waste matter, carcasses or any other obnoxious substance in his premises or neighbourhood;
- iii. forcibly removes clothes from the person of a member of a Scheduled Caste or a Scheduled Tribe or parades him naked or with painted face or body or commits any similar act which is derogatory to human dignity;
 - iv. wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred;
 - v. wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water;
 - vi. compels or entices a member of a Scheduled Caste or a Scheduled Tribe to do 'began' or other similar forms of forced or bonded labour other than any compulsory service for public purposes imposed by Government;
 - vii. forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote to a particular candidate or to vote in a manner other than that provided by law;
 - viii. institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe;
 - ix. gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe;

- x. intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;
- xi. assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonour or outrage her modesty;
- xii. being in a position to dominate the will of a woman belonging to a Scheduled Caste or a Scheduled Tribe and uses that position to exploit her sexually to which she would not have otherwise agreed;
- xiii. corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of the Scheduled Castes or a Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used;
- xiv. denies a member of a Scheduled Caste or a Scheduled Tribe any customary rite of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any section thereof have a right to use or access to;
- xv. forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence;

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and, with fine.

Whereas the reality is that, this Act remains significant by its non-implementation. The cases lodged by the aggrieved STs/SCs are few. Judicial verdicts through the judiciary, especially at the lower levels of the judiciary, take years to come through. By that time, the hurt feelings get numbed and life goes on somehow. The fact is that

very few guilty non-ST/SC individuals/organizations/government officers have been punished.

3.3. The Panchayats (Extension to Scheduled Areas) [PESA] Act, 1996⁷

The PESA Act is a fruit of Adivasis' and their political representatives' long drawn disenchantment and struggle. For the first time, this Act recognized the fact that the Adivasi societies in India have had a rich social and cultural tradition of self-governance. Hence, the Act outlines the composition and functioning of a Gram Sabha (village-assembly). The following powers have been proposed to be given to Gram Sabhas:

- i. Every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution;
- ii. Approve plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at village level;
- iii. Be responsible for the identification of selection of persons as beneficiaries under the poverty alleviation and other programmes;
- iv. Certify the utilization of funds by the Panchayat for plans, programmes and projects;
- v. Be consulted before making the acquisition of land in Scheduled Areas for development projects and before resettling or rehabilitating persons affected by such projects;
- vi. Plan and manage minor water bodies;
- vii. Permit prospective license of mining lease and recommend grant of mining lease for minor minerals;

- viii. Recommend grant of license for exploitation of major minerals by auction;
- ix. Enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant;
- x. Ownership of minor forest produce;
- xi. Prevent alienation of land and take appropriate action to restore any unlawfully alienated land;
- xii. Manage village markets;
- xiii. Control money lending;
- xiv. Control institutions and functionaries in all social sectors;
- xv. Control local plans and resources including tribal sub-plans.

Whereas the reality is that, this Act of Parliament has deliberately been left unimplemented in all the nine states with significant Adivasi population. This implies that the capitalist ruling class does not want Adivasis to self-govern themselves.

3.4. The Samatha Judgment, 1991, of the Supreme Court⁸

The Samatha Judgment (1997) of the Supreme Court came as a huge relief to the Adivasi societies in Scheduled Areas. It came at a time when, consequent to the policy of globalization, liberalization, marketization, and privatization, national and international corporate houses started to invade Adivasi areas in central India to mine the mineral riches. The Government machinery was giving its full cooperation to these companies. Any resistance by Adivasis was put down with an iron hand. In response to these acts of injustice, the Supreme Court judgment was meant to provide some significant safeguards for Adivasis. It enabled them to take control of the excavation of minerals in their lands and to help them develop themselves economically. The salient features of this judgement are:

Minerals to be exploited by tribals themselves either individually or through cooperative societies with financial assistance of the state;

- i. In the absence of total prohibition, the court laid down certain duties and obligations to the lessee, as part of the project expenditure;
- ii. At least 20 per cent of net profits as permanent fund for development needs apart from reforestation and maintenance of ecology;
- iii. Transfer of land in Scheduled Area by way of lease to non tribals, corporation aggregate, etc., stands prohibited to prevent their exploitation in any form;
- iv. Transfer of mining lease to non tribals, company, corporation aggregate or partnership firm, etc. is unconstitutional, void and inoperative. State instrumentalities like APMDC stand excluded from prohibition;
- v. Renewal of lease is fresh grant of lease and therefore, any such renewal stands prohibited;
- vi. In states where there are no acts which provide for total prohibition of mining leases of land in Scheduled Areas, Committee of Secretaries and State Cabinet Sub Committees should be constituted and decisions taken thereafter;
- vii. Conference of all Chief Ministers, Ministers holding the concerned ministry, the Prime Minister, and concerned Central Ministers should take a policy decision for a consistent scheme throughout the country in respect of tribal lands.

Whereas the reality is that, consistent efforts have been made by the state to ignore this verdict of the Supreme Court. Several cases have been filed by affected communities, but the law of ‘eminent domain’

of the colonial rulers is invoked to alienate Adivasi land and to loot the rich mineral resources from their ethno-territories.

3.5. Forest Rights Act, 2006⁹

Jal, jangal, jamin, as we know, are the basis of the economic life of Adivasi societies. But globalization, marketization, and privatization geared towards industrialization, are laying a ruthless blow to the economic sustenance of the indigenous peoples. Of particular importance is that their traditional rights to resources found in forest areas have been systematically infringed upon over the decades. At long last, the government had come to the realization that a historic injustice had been done to Adivasis and other traditional forest-dwellers. To correct this anomaly, it enacted the Forest Rights Act, 2006. Some important features of this Act are the following:

- i. All Adivasi families living in forests from before 13 December 2005 on and cultivating land in the forests. Each family will have the right to own up to ten acres of land;
- ii. Those other families who do not live in the forest but are dependent on forest produce will also be entitled to ownership of forest land;
- iii. Claims can be made at two levels: individual ownership and community ownership;
- iv. They will have the right to enjoy the minor forest-produce such as fruits, herbs etc.;
- v. The respective Gram Sabhas will scrutinize and approve the claims and then forward the same to the Block/District-level Forest Committees;
- vi. This process of distribution of forest land will not be under the purview of the Forest Department.

So far, so good! Whereas the reality is far from desirable. From 2006 to 2016, about 41 lakh applications for title-deeds were made all over the country, of which 18 lakh were approved, three lakh held in suspense and 20 lakh rejected. A few months ago, a bombshell from the Supreme Court fell on forest-dwelling communities when it ordered that all those families, whose petitions had been rejected, should be evacuated from forests! The outburst from all across the country was such that the honourable court agreed to review its own judgment. What the final verdict will be is something to look forward to.

3.6. Land Acquisition Act of 2013¹⁰

Displacement and land-alienation of Adivasi societies has been and continues to be a vexing problem. The colonial era ‘Land Acquisition Law’ of 1894 was kept intact for more than a century, as a result of which about six crore population was displaced for various projects such as small and large dams, mines, infrastructure, industries, etc. Of them, 40 per cent were Adivasis. Only 25 per cent of the total displaced were resettled. Hardly a few were rehabilitated since that involves social and cultural dimensions. People reached a state of mind that enough was enough. In more and more organized ways, they started to protest and resist displacement. It was this predicament that forced the UPA II government to pass a fresh ‘Land Acquisition Law’ of 2013 to replace the old colonial law. This law contains some favourable elements for farmers in general and Adivasi societies in particular. Some of the provisions of the Law are:

- i. The Act provides for land acquisition as well as rehabilitation and resettlement;
- ii. The process of acquisition involves a Social Impact Assessment survey, a preliminary notification stating the intent for

- acquisition, a declaration of acquisition, and compensation to be given within a certain period;
- iii. Rehabilitation and resettlement is to be provided to people affected by the land acquisition. The displaced persons/families/communities will first be rehabilitated with house, water, electricity, schools, health centres etc. Only after that will they be asked to move away from their original land/community. In short, displacement only after rehabilitation;
 - iv. Compensation to the owners of the acquired land shall be four times the market value in rural areas and twice that in urban areas;
 - v. In case of acquisition of land for use by private companies, consent of 80 per cent of all land losers is required; in case of public-private partnerships, consent of 70 per cent of landowners is required;
 - vi. Punishment through courts to government officers who violate the law;
 - vii. Multi-crop agricultural land is not to be acquired at any cost;
 - viii. Land which has been acquired but not utilized for the said purpose for a period of five years or more is to be returned to the original landowner;
 - ix. When it comes to acquisition of Adivasi land, as a general rule it should not be acquired. And in case of utmost necessity only as a last resort and with the consent of the Gram Sabha, the land can be acquired.

The provisions of the Law are there. However, the reality is different. After the promulgation of the Act, state governments rather reluctantly began to initiate the process of its implementation. However, hardly

a year had passed when in mid-2014, the new party at the Centre sabotaged the salient provisions of the Act. On the penultimate day of 2014, they brought in a 'Land Acquisition Ordinance' which bypassed the Parliament. It is obvious as to why the new dispensation took recourse to such drastic action. The national and international corporate houses, which had financed the election campaign of the ruling party, were now asking for their pound of flesh. If the present government would not oblige them, it could lead to the fall of the government itself. Hence the compulsions from corporate houses outweighed the government's obligation to the citizens of the country.

Some of the damaging elements of this divergent Land Acquisition Act Amendment Ordinance 2014 are the following. Let us see them in comparison with the original Land Acquisition Act of 2013:

- i. Any registered private entity can acquire land as per the Amendment Ordinance 2014; whereas in the original law (Land Acquisition Act of 2013) only licensed companies can legitimately acquire land;
- ii. The 2013 Land Acquisition Act mandated a social-impact assessment to be carried out by a neutral body of experts about the ill-effects of the project in terms of water/air pollution, destruction of water sources, soil erosion, despoliation of greenery etc. If the negative aspects would prove overwhelming, then that project should be cancelled. Sadly, the Amendment Ordinance 2014 does away with such an assessment;
- iii. Whereas the 2013 Act makes people's consent (70% for PPP projects, and 80% for private companies) a necessary condition, the 2014 Amendment leaves it out altogether;
- iv. The Amendment authorizes compulsory acquisition even of multi-crop agricultural land;

- v. The punishment to be meted out to government functionaries when they are found guilty is also done away with in the Amendment;

The provision of the 2013 Act is that the land be returned to the original owner, when an acquired piece of land is not used for the purpose for which it was acquired within the time-limit of five years; the 2014 Ordinance makes it open-ended.

Wholesale resistance to this Ordinance at the popular level as well as in the legislature took place all over the country. Finally, the government was forced to give up its efforts to amend the law. Thus, we see how even when some meaningful steps are taken by the government, the capitalist ruling class gears itself up to sabotage them. However, the central government authorized the state governments to amend the law at their discretion. The Jharkhand government grabbed this opportunity to amend the law. But people have been resisting the strong arm of the state.

3.7. ‘Owner of the land is also the owner of sub-soil minerals’: a matter of common sense

The Supreme Court of India, in a path-breaking judgment, has said: “we are of the opinion that there is nothing in the law which declares that all mineral wealth, sub-soil rights, vest in the state; on the other hand, the ownership of sub-soil/mineral wealth should normally follow the ownership of the land, unless the owner of the land is deprived of the same by some valid process.”¹¹

A myth exploded: During all these years, the ruling class and the Government had created a myth that sub-soil minerals belong to the state. On that assumption, the state claimed its right to ownership as well as the use of these minerals. Thousands of acres of land with millions of tonnes of minerals was arbitrarily and forcefully acquired

by the state. Electricity was generated; rail-cum-road infrastructure was created; and big dams and factories were built. All these were named ‘modern temples’. No one cared as to what the law had to say on the matter. The Indian legislature, executive and judiciary did not find it necessary to reflect on the matter. The centres of learning, churning out intellectuals and professionals, never pondered on this vexing question. India, the largest democracy in the world, had to wait for well over 60 years to affirm that ‘the owner of the land is also the owner of the sub-soil minerals.’

The silent majority: when the all-powerful state and its machinery posed the claim that the state is the automatic owner of all minerals, the land-owning-farmers who are at the lowest rung of the socio-economic ladder, also accepted it as an inevitable truth. The tragic truth is that, although the farming sector, which engages 65 per cent of the population in productive activities, has been kept at the receiving end all these years. For one thing, the farmers and their offspring are not as formally educated as the urban middle and upper classes of society and hence they cannot put forward their natural right over the sub-soil minerals. They have been the silent majority.

3.8. Provisions of the UN concerning ownership of minerals

The Indigenous Adivasi societies have followed the common sense law which says that the owner of the land is the owner also of the sub-soil minerals. This has been reconfirmed by the United Nations Organization. The United Nations Declaration on the Rights of Indigenous Peoples, adopted by General Assembly Resolution 61/295 on 13 September 2007, in Article 26, affirms:

- i. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired;

- ii. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired;
- iii. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.¹²

Let us remember India is a signatory to the above UN Declaration on the Rights of Indigenous Peoples. Hence, India is morally bound to honour these resolutions. Apart from its UN commitment, the Indian Government has enacted some laws meant to safeguard its indigenous peoples and their interests. The PESA Act 2006 clearly asserts, “Every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution.”

This corresponds to the notion of indigenous territoriality elaborated by ILO Convention No. 169 in which indigenous rights to property extend to the natural resources that they use as part of their traditional economies or which have cultural, spiritual or ceremonial uses. Article 15 (1) states: “The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.”¹³

The fact of the matter is rather different. “There are no indigenous people in India,” says the Government of India. This is a clear plot in the actions of the government. It is evident from the fact that on one hand, the government liberally signs the resolutions of UN Conventions and on the other hand, it keeps denying that there are

indigenous peoples in the country. As such it feels it is not obliged to abide by the decisions taken in the UN. It is a denial of the very existence of about 10 crore Adivasi people. Instead, they have been put in the conveniently created Scheduled Tribes category and some bits and bobs are thrown at them, most of which are eaten up on the way by middlemen and government bureaucrats; and hence, do not reach the deprived and deserving among them. Consequently, poverty is deepening among Adivasis.

In the meantime, the rich minerals in Adivasi lands are being looted by the government and private companies. The Supreme Court has declared 214 out of the 219 Coal-Blocks in the country illegal and ordered their closure and levied a fine on them for their illegal mining. But the central and state governments have found a way out by re-allotting these illegal mines through auction to make it look legal! A lot of assurances are given that Adivasi land will not be given to industrialists, yet at the same time, mines in Scheduled Areas are being allotted to government and private companies. This is a cheating game! Wolves in sheep's clothing!

To conclude this sub-section, we may say that, a time will come when the farmer-land owners and Adivasis will be sufficiently awakened, strengthened and will tell the government and industrialists that they are the natural owners of the minerals in their land; and if the government and industrialists want these minerals, they will have to buy them from them. Let us hope that time will come soon.

3.9. Laws concerning banned organizations and their implementation in predominantly Adivasi regions

Lots of atrocities have been committed on Adivasis in the name of the fight against Naxalism. However, the laws speak a different language. For example, a Supreme Court judgement says: Mere membership of a banned organisation will not make a person a criminal unless

he resorts to violence or incites people to violence or creates public disorder by violence or incitement to violence.¹⁴ The Court rejected the doctrine of ‘guilt by association’. Mere membership in a banned organisation will not incriminate a person unless he resorts to violence or incites people to violence or commits an act intended to create disorder or disturbance of public peace by resorting to violence.

The law is clear. However, the reality is a different story. It is common knowledge that many young men and women have been held in prison on the suspicion of being “helpers of Naxalites”. It is an easy label that can be put on any one whom the police wants to catch. It does not require any proof or witness. Let us keep in mind that many of those arrested are not even members of any Naxalite outfit. The Supreme Court says that mere membership in a banned organisation does not make a person a criminal. After a person’s arrest, other penal clauses are added on him/her too. How far removed are the law and order forces from the judiciary! Even if there is a modicum of humanity left with the government and the police, these young men and women should be set free. The important question is: under which law or penal code are the police and para-military forces arresting young men and women as part of their anti-naxal operations? It is very clear that they have not been abiding by the Supreme Court ruling. As such, they should be sued for contempt of court.

To get bail is a right of the prisoner... but who will bail them out? Getting bail is not within the reach of most under-trial prisoners. For one thing, the lower courts consistently refuse to grant a bail to anyone accused of being a Naxalite. This means that the prisoner has to approach the High Court, and sometimes the Supreme Court to get bail. The second factor is the expenses involved. An average expense at the level of the High Court is between ten to twenty thousand rupees. How many rural Adivasi families can afford this expense?

In fact, most families are not even in a position to allow them to come to the jail to meet their dear ones. At the same time, the government does not reach out to them by providing free legal aid. In short, the several hundreds of Adivasi/Dalit under-trial prisoners in Jharkhand alone are condemned to languish in jail for years to come. It is important to remember that of those who have been arrested under UAPA and CL-17 as part of 'Operation Green Hunt,' (one of the anti-naxal operations so named by the state functionaries), there has not been even a single conviction. We can be sure that when the trial would take place, most of them might be acquitted. Regrettably, there has not been any time limit within which the trial has to take place. Again, the Adivasis are the victims. Justice delayed is justice denied.

A point of serious concern is that when the rights of people are denied outright and wholesale, at least we know where we stand. But when constitutional/legal/judicial rights are given by one hand and surreptitiously taken away by the other hand, it is a deceptive game being played by the powers that be on the life of those deprived people who have a right to enjoy these rights. Are they to wait indefinitely hoping against hope?

4

The early morning knock: The Bhima-Koregaon imbroglio to conceal the real guilty, create other phantoms

At 6 am on the 28 August 2018, I heard loud footsteps outside my room at Bagaicha. From the window, I saw that my two Jesuit confrères were outside their rooms. On opening my door, I saw standing in front of me a local police contingent of about 30 men with rifles and *lathis*. A small group of eight persons in civil clothes came forward. They introduced themselves as the Pune Police and said they had come to raid my premises and search me. I asked for a search-warrant and the chief produced a typed sheet. However, I found it was typed in Marathi language. I told them that I do not understand Marathi, and hence, need an English or Hindi translation so that I could understand why they had come to search me. At this, the officer said the translation could wait but that the search had to be done right away; he brushed me aside and forcibly entered my living-cum-work room. They spent three hours turning everything upside down. I asked the officer why they were doing this to me.

He replied, “You are a ‘suspect’ in the Bhima-Koregaon case in Pune”. This shocked me because I have never been to Bhima-Koregaon in all my life nor had I anything to do with what happened there on 1 January 2018. I noticed that one of them was writing something all the time. They seized my laptop, mobile and sim card, some CDs and some documents lying on my table. Then they asked me to sign a hand-written document and I again found that it was in Marathi, and thus refused to sign a document which I did not understand. They, then, walked to the gate and were discussing and possibly contacting their higher ups in Pune as to what to do. In the meantime, my two Jesuit lawyers arrived and I told them also that I would not sign that document. They, then, went to the Pune police officers to discuss about it and eventually arrived at an understanding that the chief officer would read the document sentence by sentence and give an oral translation of it in Hindi. After that, I put my signature on it. A handwritten Hindi translation of the same was made available to me five days later and I found it was mostly an inventory of the items they had seized from me during the raid.

Needless to say, not only my friends/comrades arrived to stand in solidarity with me but also a large group of journalists and reporters from both print and electronic media came to interview me. My colleagues and I told them that I would issue a statement in the afternoon which they could use.

Later in the day, we came to know that similar raids were conducted by Pune police in different parts of the country against 11 other intellectuals, lawyers, poets and social activists. Nine of them were arrested and taken to Pune jail. Two of them managed to get bail in their respective High Courts. I, the 12th person, remain a ‘suspect’ under investigation.

No restrictions with regard to my regular activities or movements or contacts were imposed on me and my confrères and I carried on with our activities as ever before. Some public-spirited lawyers offered to fight my case in Bombay High Court wherein I challenged the FIR against me. The presiding judge said that there is actually no case against me as I am only a ‘suspect’ and not an ‘accused’ but at the same time he authorized Pune police to continue its investigation on me. If they would find anything incriminating under the Unlawful Activities Prevention Act (UAPA), they can arrest me and go ahead with legal procedure.

The second raid-cum-search drama

Almost ten months later, at 7 am on the 12 June 2019, the Pune police accompanied by about 30 local police arrived again at Bagaicha. This time, they were led by the Asst. Police Commissioner of Pune. When my Jesuit confrères and I asked him for the search warrant, he said, “I, as the Commissioner, do not need any warrant from anybody.” He and his team of eight forcibly entered my living-cum-work room and started rummaging through everything. The Commissioner did not interrogate me, instead I persistently interrogated him. I asked him if he was aware that the Pune police had searched me and seized several items last August, and if they had found anything incriminating against me. He said, “Yes.” However, he refused to divulge what it was. I then asked him, much to his annoyance, if torture is a part of police investigation to which he sternly replied, “No.” I then reminded him that one of the nine persons, who were jailed in August 2018, was indeed tortured during police custody. He asked for the name; I told him the name and how he (a respected lawyer) was slapped continually on his face and one slap hit and injured his eye to the extent that he had to be taken to a hospital on the following day. The Commissioner evaded my query and said that he would answer it in the court!

This time around they took away the hard disk from my computer and some documents lying on my table. Although they did not seize my mobile phone this time, their technician started to meddle with it until I objected to it. The Commissioner wrote a note addressed to me listing the seized items and informed me that they had sealed my Gmail and Facebook accounts. They also directed me not to use these accounts. They showed me the inventory and asked me to put my signature on it. Seeing that it was in Marathi, I refused to do so. The two witnesses, one of whom was brought from Pune, signed the document. Finally, off they went.

In the meantime, several friends/comrades and my lawyers reached Bagaicha to stand in solidarity. There was also an unruly crowd of journalists and reporters from both the print and electronic media wanting to interview me. On the advice of my friends and lawyers, I told them that this was the second time I was being raided and searched and that I would cooperate in any legal inquiry. I also assured them that I would prepare a statement on the day's happenings which they would be able to avail in the afternoon from the internet. Such was the day, when I faced the unique distinction of being raided twice in a span of one year.

What lies behind this Bhima-Koregaon episode?

Most concerned persons are intrigued by the Pune police action. They have been asking, “What exactly happened at Bhima-Koregaon and why have eminent writers, lawyers, poets and social activists, who have given the most and best of their life for the cause of exploited and marginalized people, been harassed to the extent of not even getting bail even after one year of their incarceration?”

The answer is simple... it is to hide and protect the real culprits who, belonging to the so-called “high-castes” and upper classes,

are members of Hindutva forces which enjoy the patronage of the present ruling BJP.

Elgar Parishad is a joyous festival celebrated by the Dalit people of Maharashtra and its neighbouring states every year to commemorate their victory over the so-called “higher castes” in a battle some 200 years ago. It is, in other words, a victory celebration held every year by the Dalit people. Now, the 1 January 2018, happened to be the 200th anniversary of the victory and therefore a much bigger gathering of Dalits from all over the country took place wherein prominent judges, lawyers and writers participated. Some “high caste” leaders felt it was going too far and decided that this surging enthusiasm of Dalits must be curbed. Hence, as the Dalits were returning after the celebration, some Hindutva leaders mobilised the Hindu community and attacked them with lethal weapons, destroyed shops and forbade even drinking water to the Dalits. The very next day (2 January 2018), some 22 FIRs were filed with the Pune rural police against the Hindutva leaders who organised and carried out the violence. The FIRs specifically mentioned the names of two persons. The police swung into action and arrested one of the two who came out of jail after a month. Whereas the other was never arrested. Now, both of them roam about freely. If this case by the Pune rural police would take its normal course, it would surely implicate the top two Hindutva leaders. This could lead to an embarrassing situation for the ruling BJP party. This would also question its profession of secularism and questions will be raised about its “high-caste” bias.

So, a way had to be found to divert the nation’s attention. Some alibi had to be found. With a well-schemed plan, one of the followers of one of the Hindutva leaders filed a complaint case with the Pune urban police accusing prominent intellectuals, lawyers, poets, and human rights defenders that they were responsible for the

Elgar Parishad violence. The Pune urban police was activated to identify and take legal actions against about 25 persons, of whom I happened to be one. Five were arrested in June 2018 and in August, the same year, another four were arrested. Some are said to be absconding. Two managed to get anticipatory bail. My lone self is until now only a 'suspect'. They probably could not find anything in the first raid; hence, I was raided a second time. The plain fact is that all the documents they seized during the two raids were already in the public domain. However, they might still find some loophole to net me!

It is common knowledge that the lower levels of the judiciary, all judicial officers and magistrates, are appointees of the state government and hence, subjected to the dictates of the ruling political class/party. Hence, no justice can be expected from them. It is only the higher judiciary (the High Courts and the Supreme Court) which have a certain independence in appointing judges which might be expected to exercise their jurisprudence independently and follow the dictates of their conscience. In the *Elgar Parishad* case, even the higher judiciary seems helpless to deliver justice, since the police has placed before them a voluminous so-called 'evidence' amounting to thousands of pages (in our case 5000 pages), leading to the petrification/partial paralysis of the judiciary. Which judge would find the time to intensely study 5000 pages of evidence just for one case? The end result would be that bail might not be given even after more than a year. When would a trial be commenced and when would it end leading to acquittal or conviction? One thing is certain: Justice delayed is justice denied.

The REAL and the ALLEGED reasons for the FIR against me

My lawyers, colleagues and I believe that the **real reason** I have been implicated in these cases might be the challenge I have posed to the state in Jharkhand by the PIL I filed in the High Court of Jharkhand

on behalf of thousands of Under-Trial Prisoners (UTPs) languishing in the jails of Jharkhand. The study on UTPs brought out the fact that at least 90 per cent of them are likely to be innocent. In this context, several concerned social activists and lawyers from central Indian states had given a call to each other to come together and chalk out a way to come to the rescue of the thousands of UTPs in all four central-eastern (Jharkhand, Chhattisgarh, Odisha and West Bengal) states. We had come together towards the end of 2015 and had formed an informal body called *Persecuted Prisoners Solidarity Committee* (PPSC). It is an open body with no formal membership but with the resolve that we would collaborate with each other and have recourse to legal action. I happen to be a co-convener of this body as well.

It is on the basis of the above study of under-trials that my PIL was formulated. The state has much to hide; and hence, even after one-and-a-half years, it is not placing all the relevant facts regarding UTPs before the court. But I kept pressing on in every hearing. I have, thus, become a thorn in the flesh of the state and it is intent on getting me out of its way. The police force and those utilising them are obliged to help each other and the Bhima-Koregaon case is a convenient alibi to do that.

The alleged reason given by the Maharashtra police is that PPSC, together with *Committee for Release of Political Prisoners* and *All India Peoples Lawyers*, is a frontal organisation of the Maoists and that all these three organisations receive directives from Maoists and are funded by them! Hence, as of now, the previously alleged Bhima-Koregaon connections are not being placed before the Bombay High Court. However, somersaults are being performed to establish the nexus between these three organisations and Maoists.

The sober fact is that PPSC, of which I am a founder member and a co-convener, is a spontaneously-formed body of some concerned

citizens of central-eastern India who intend to reach out to the unjustly imprisoned Adivasi and Dalit youth. We meet as and when we feel the need to do so. We receive no funds from anybody. The expenses of board and lodge are met by mutual contributions, each one contributing as per one's financial capacity and desire to do so. We are accountable to each other and together we are accountable to the Adivasi and Dalit peoples of central-eastern India.

This should put to rest all speculations and cooked-up accusations.

5

Repressed but not defeated: The sad saga of ‘under-trial prisoners’ and unfinished efforts to reach out to them

When one opens the morning newspaper or opens a TV news channel in the Adivasi states of Central-Eastern India, one finds the media reports of one or more Adivasi and Dalit youth being sent to jail on the suspicion of being naxals or helpers/sympathizers of Naxals. According to media reports, several hundreds of Adivasi and Dalit youth are languishing in the jails of Jharkhand as naxal-suspects. When the general reading/viewing public gets used to this as a matter of daily occurrence and finds nothing amiss, it is a dangerous sign for a healthy democracy. Sadly, most of the educated, urban, middle-class public approves of this police action and is happy thinking that the police are doing a ‘good job’ against what is called “Naxalite-menace”.

In 2015, we at Bagaicha, felt that we should not rest with the media reports but should find out the reality ourselves. First, we approached jail-superintendents for permission to go inside the jails to interview the UTPs but our request was flatly refused; then we sent a questionnaire

as per the *Right to Information Act* (RTI) to all jail-superintendents of all the 24 jails of Jharkhand. As per the Act, the respondent must answer the request for information within 30 days of receipt of the application. We patiently waited for two months and only 12 of the 24 jail superintendents bothered to respond; and that too, haphazardly. We, then, complained to the Inspector General of Prisons. However, he too washed his hands of the responsibility, saying that he was new to the job, did not know the precedents, and hence, could not act on our complaint. The Bagaicha Research Team, then, decided to do a sociological sample study of Under-Trial Prisoners (UTPs) who were out of jail on bail but who still run to the courts for every date of hearing where no trial-hearing takes place but instead they only get the next date!

The research team consisted of Bagaicha staff and some UTPs. The sample study took six months to complete. The Team met 102 UTPs in their own homes in 18 of Jharkhand's 24 districts. The Research Report was published in October 2016 under the title: *'Deprived of their rights over natural resources, the impoverished Adivasis find prison'*. The study brought to light some startling facts: (1) Of the 102 persons interviewed; only three admitted that they had any relation with any naxal/Maoist groups. That means, 97 per cent of those jailed as naxal-suspects are likely to be innocent. Can there be a greater injustice done to the hapless Adivasis/Dalits? (2) The proportion of Adivasis and Dalits to those of general categories was far higher than that found in the general population; (3) Most of them were picked up by the police either from their homes or from buses/trains on the way to the market/town, thus disproving the police version that they were captured in the forests as they were trying to flee; (4) Two-thirds of them were in the age-group of 18-35, just the age when a young man becomes an active member of the community, settles down in

life, marries with his wife and has small children, and most of all is the sole or main breadwinner of the family. By being suddenly plucked away and thrown into jail, the whole family is irreparably affected, and often their small assets of land/cattle either sold or mortgaged. In short, several families have been reduced to destitution; (5) Most of them did not even know why they were arrested until charge sheets were filed and they saw to their horror that they were implicated in too many legal clauses; and it would take years before they can come out clean from all the litigations. In other words, their family lives have been ruined permanently; (6) 'Bail is a right of the prisoner', but who will bail them out? Even if the court grants bail, one has to look for 'bailers' and lawyers to pursue the case; all this costs several thousand rupees which is far above their capacity. Hence, most of them, their families and communities, have been suffering in silence. Their small children grow up without paternal love and care.

The Bagaicha Research Team felt that having found out the truth, we had to act on it. The only way of doing this was to take recourse to legal action. After consulting several legal professionals, a Public Interest Litigation (PIL) was filed in the Jharkhand High Court towards the end of 2017. The PIL got admitted in January 2018, with Stan Swamy listed as the main petitioner. The Chief Justice, even as he admitted the case, directed the state to furnish all the required information about all the UTPs in Jharkhand. It is now one-and-a-half years and Jharkhand state is yet to submit the complete details of all the prisoners. All kinds of excuses have been proffered before the court. Some eminent lawyers have offered to argue the case. However, the case has not come to the argumentation stage yet, since we do not have all the required information about all the UTPs of Jharkhand.

Our prayer before the HC is: (1) that all UTPs in Jharkhand jails be released on personal bond since they cannot afford regular bond;

(2) that their trial-process be speeded up with the certainty that most of them will be acquitted; (3) that a judicial commission be appointed to find out and rectify the inordinate delay leading to so much human suffering and denial of their human and constitutional rights; (4) that the police officers who deliberately and illegally arrested them be given exemplary punishment; (5) that a just and adequate compensation be paid to the families of those acquitted. We have been hoping against hope that justice will be done to the unjustly imprisoned Under-Trials.

We feel that this PIL, of which I am the main Petitioner, has become a thorn in the flesh of the state government since it takes to task the state for its deliberate persecution of Adivasis and Dalits. The state, in this case, has much to hide. Hence, the Jharkhand police, in connivance with the Pune police, are trying to get me out of the way by implicating me in a faraway Bhima-Koregaon case. Additional reasons for such implication will be detailed in the following pages.

The real purpose is to irreparably maim Adivasi and Dalit communities by incapacitating the younger generation. Even if they manage to get bail, they would be running to the courts for years. They would have spent their limited resources and would be forced to move out of their homes/villages/communities just to eke out a living as casual/contract labourers. Their small children will be growing up without paternal love and care. Their strong community-bond and their community-based culture will dissipate. The onslaught on their land, forest, despite so-called 'protective laws', would continue unabated all in the name of 'national development'. If there is strong resistance against land alienation and consequent displacement, the 'law of eminent domain' of the state would be liberally used. It is a well laid out plan to extinguish the Adivasi (indigenous) and Dalit peoples as distinct social groups asserting their special constitutional and human rights.

It is, hence, all the more important that this case, on behalf of the thousands of Under-Trial Prisoners, be fought till justice is done. Some eminent lawyers have offered to argue the case in Jharkhand High Court when it comes to the argument-stage. But the state is doing all it can to see that it does not reach that stage.

It's a long road to freedom!

6

There surely is a difference between Capitalism and Socialism

An experience of enslaving capitalism and liberating socialism

It was 1989 and I was doing a month-long study on the Economy of East Asian countries in a research institute in Hong Kong (HK). Hong Kong, as we know, is the meeting place of the international capitalist market. A British colony, but China claiming political control. The shopping centres, the malls and luxury hotels all spoke of flourishing trade transactions, and millions of tourists were pouring in from all over the world. Indeed, an example for all other countries to follow. Old was not gold, rather all the new, latest models of consumerist items were the appealing forces. The American dollar was the most wanted currency; at every turn of the street you would have ‘dollar-exchangers’ running after you to change the dollars in your pocket into local HK dollars at competitive rates.

As I walked through a park early one morning, a silly thing happened. The pin of the chain of my old watch gave way and the watch swung

off from my hand and fell on the ground with a thudding sound. I picked up the watch and saw that it was still running. So it was a question of merely getting that small pin fixed so that I could wear the watch. Later in the afternoon while returning to my living quarters, I walked into a glittering Watch and Clock Shop where watches/clocks of every possible brand were exhibited in a very attractive fashion. I approached the person at the counter, pulled out my old watch from my pocket, showed him how the pin had given way and asked him to replace the pin so that I could wear my watch. He looked at me with disdain and said curtly “we don’t do such things in HK... old watches are not repaired...new watches are available in plenty”. When I told him my watch was in good condition, only the chain had come off, he pointed to the door and asked me not to waste his time! So, I walked out of the glittering shop saying to myself ‘this is the true face of capitalism’.

After a few days, I had the chance to go to China along with a Chinese friend. We went to Guang Shou city (the name has since changed), one of south-east China’s large cities. I tried to meet ordinary people in the lower rungs of the economic ladder with the desire to know how they were making a living. Let it be remembered that, 1989 was at the far end of Chinese socialism, just before it would bow to the onslaught of capitalism. Every adult was employed, wages were low even compared to Indian standards, but yet every family had a modest house, the education of their child (one-child norm was in vogue) was taken care of by the state from the age of three, all members of the family enjoyed free health services, public transport facilities were adequate, men and women went to their work-place and back mostly by bicycle, and the price for consumer items like clothes and food-items were set according to the size of earnings. Life was simple, hard and bereft of luxury.

When speaking to them, it was revealing to note that, ordinary Chinese had no feelings of antipathy towards Indians. Rather, they said that the Indian and Chinese governments were at loggerheads at the time, but that the people had no problems with Indians.

Coming back to my broken watch-chain, my friend took me to a small watch shop, bereft of any glamour, where old watches to be repaired or sold were hanging by the dozens on the wall. A young lady was busy fixing a watch, and when we showed her the broken chain, she promptly opened the drawer, took out a new pin, fixed it deftly and asked me to wear the watch. After I wore my old watch, I asked her how much I should pay, but she shook her head with a broad smile and said, *“But you are our guest. We do not charge our guests”*. I was not quite prepared for this small, simple but magnanimous gesture. I thanked her with a bow, and she responded with an even broader smile! As my friend and I took leave of her, I thought to myself ‘how endearing is this glimpse of socialism’!

Do we now see the difference between the two?

7

‘Illegal’ can be made ‘legal’ as per convenience: Illegal mining company made ‘legal’ by judicial verdict

The Santhal Adivasi (indigenous) people are the largest tribe in Jharkhand. Their land lies towards the eastern part of Jharkhand, bordering Bengal in the north and Odisha in the south. Their language *Santhali* is akin to *Mundari* and *Ho* languages. Their forests, lands, other natural resources and sustainable mode of production has been the basis of their distinctive cultural values and traditional customary practices. The traditional head of a Santhal village is called ‘Majhi’ and the head of a cluster of villages is called ‘Parganait’. They lived a peaceful life. However, the intrusion of exploitative and oppressive outsiders, whom they called ‘dikus’ (meaning, those who give trouble to Adivasis), began to increase rapidly. Santhals, like the rest of the Adivasi societies in Scheduled Areas, were protected by clear constitutional and legal provisions. First of all, the *Fifth Schedule of the Constitution* assured them the right of self-governance under their traditional leadership; secondly, the *Santhal Pargana Tenancy Act 1949* in clear terms, forbade any transfer of their land to any

non-tribal person/entity; thirdly, the *Panchayats (Extension to Scheduled Areas) Act 1996* (PESA Act, in short) empowered Gram Sabhas to protect their economic, political, social and cultural interests; and fourthly, the *Forest Rights Act 2006* endowed them with a legal title to their forest lands.

Despite the above protective provisions, the state government quietly entered into a MoU with Punjab State Electricity Board to excavate coal through its auxiliary PANEM Co. in 8 to 10 villages of Pachuada panchayat of Pakur district of Santhal Pargana in early 2000. This step of the state government was in complete contravention of all the protective provisions mentioned above. People came to know about it only when formal notices were served to different households of these villages. They were shocked beyond belief but geared themselves up to resist this illegal, unjust aggression into their lives. Spontaneous protest rallies, public meetings and door-to-door campaigns were able to mobilise the to-be-affected people and they stood as one and spoke in one voice under the leadership of their traditional head the *Parganait*. But the government was unyielding to the people's demands that the proposed mining should be given up.

Justice eludes the poor

At this juncture, some Adivasi-activists suggested that they approach the Jharkhand High Court to seek justice. The suggestion was unanimously accepted by the people and a PIL was duly filed, the main petitioner being the *Parganait* himself. Fortunately for the people, a well-known advocate of the Supreme Court offered to argue the case. Coherent arguments were placed before the court, bringing out the illegality of the proposed mining which would lead to the vast displacement of village communities in the absence of any sound rehabilitation programme. All seemed to go well till the last minute. Alas, taking advantage of the absence of the lawyer due to his unavoidable engagement in the Supreme Court that day, for which he had prayed for an adjournment of the final hearing, the

Jharkhand High Court declined to grant his request and went ahead to pass its verdict in favour of PANEM Co. and the government. **The verdict, while admitting on the one hand the validity of the points raised by the petitioner, gave a green light for the mining on the avowed claims of ‘national development’ and the ‘eminent domain of the state’ as per which the state has absolute authority to acquire any property if it deems it necessary for the development of the country.**

It was an unbearable blow on the poor Santhals who were only seeking constitutionally-guaranteed protection to their lands and forests. But they did not want to accept defeat and decided to appeal against the HC verdict in the Supreme Court. The honourable SC, while admitting the case, refused to look into the merits/demerits of the HC verdict. Instead, it ordered that adequate compensation and rehabilitation measures should be worked out. It directed the PANEM Co. to sit with the representatives of the affected people to work out the details of rehabilitation. By the way, it is worth mentioning here that this was a historic moment, for it was the first time the higher judiciary in India ordered a corporate industrialist to sit with affected people and work out a mutually acceptable rehabilitation plan. It would not have been possible but for the resolute resistance of the people against unjust displacement, even though at best it was only a consolation prize. However, justice again deluded the poor.

Haphazard rehabilitation

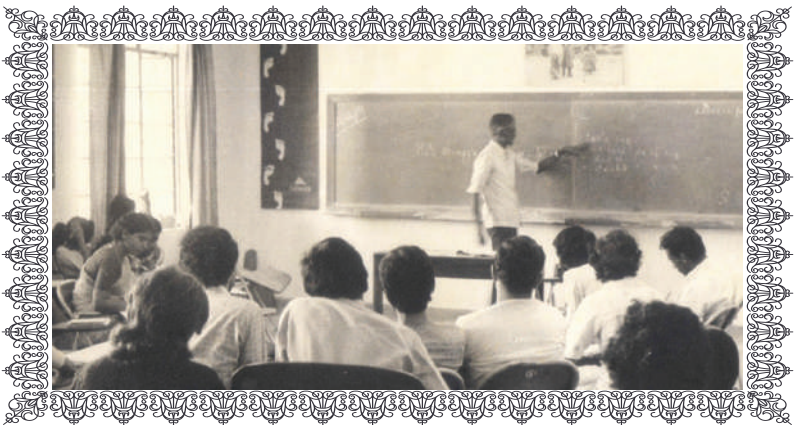
It was a tough negotiation between the affected people, who wanted to live a community-based peaceful life with adequate socio-economic infrastructure, and a private company, whose sole motive was profit and only profit. Some Adivasi leaders who had supported the people’s struggle were also roped in. A rehabilitation programme was worked out which involved building houses, water and electricity facilities, school for the children’s education, and health-centre with adequate supply of medicines and personnel. It was also agreed that of the

10 to-be-affected villages, the company would take one village at a time; that is, it must first rehabilitate one village community and then commence excavation, then take a second village and so on. But the way the company went about implementing this plan, was haphazard to say the least. For the first village, identical houses were built in a line much to the dislike of the families. Overhead water tanks were built but water never flowed down the pipeline. A primary school was constructed. A health centre was set up for namesake without adequate provisions in terms of medicines or medical personnel. In short, it was merely fulfilling the SC mandate without any human substance.

Divide and rule...

Very covertly, PANEM Co. began to divide the people who had till then stood together. It bought off some of the youth from the non-affected villages by offering them small sub-contracts, two-wheelers, etc. This youth began to relish the smell of easy money and openly supported the company's interests against the people's concerns. They went to the extent of murdering a dedicated female Adivasi-rights activist, who had played a pivotal role in the people's resistance from the very start.

In 2015, the Supreme Court declared more than 200 mining companies as illegal and ordered their immediate closure. PANEM Co. was one of those illegal companies! The moment the SC order came, PANEM Co. closed up its mining operations and walked off the scene leaving its rehabilitation obligation unfinished. The two displaced village communities have lost everything, their agricultural land, forest and water sources. Instead, they now face a deep valley which looks like a desert. The compensation money has been exhausted. Whereas the state government, which should have gone after the company to force it to complete the rehabilitation works, is looking the other way. The Santhal Adivasi societies of these villages are now eking out an existence picking coal-pieces in the abandoned mine and by the roadside. Development replaced by destitution!

















8

Adivasis... from forest-protectors to 'forest-destroyers'!

The making and unmaking of the Forest Rights Act, 2006

The way Adivasi (indigenous) peoples have been treated with regard to their traditional use of forests has been a gross injustice ever since the colonial rulers took control over the forests. After independence, the new Indian ruling class followed the same process, claiming absolute authority over forests. Trees were cut indiscriminately, timber-mafias were allowed to play havoc with the forests disregarding the indigenous peoples and their traditional rights in the forests which were and have been their homes.

It used to be the custom of the forest department to connive with forest-mafias to wantonly cut trees. Periodically, some higher forest officers would come to inspect the well-being of forests. The lower level officials would walk into neighbouring Adivasi villages, catch hold of a few men, foist false cases of illegal tree-cutting against

them and throw them in jail. One particular case might be recalled in Singhbhum district of erstwhile Bihar. About five thousand Adivasis were dragged to the court for years. During the 1980s, a dedicated Adivasi-rights activist studied the entire case. He ploughed through mountains of documents of the British era in archaeological museums with regard to Adivasis' traditional forest-rights. He filed a case in the Indian Supreme Court challenging the violation of Adivasis' traditional rights by the forest department. The court appointed a commission to probe into and report the matter. The commission interviewed several of the accused, forest officials and duly submitted its report. The report clearly brought out how the unscrupulous forest department, in connivance with equally unscrupulous timber-mafia, had been harassing Adivasis who lived in and around forests. The Supreme Court, in one stroke of the pen, wrote off hundreds of false cases and freed thousands of Adivasis who had been wrongly implicated. The court also warned the then Bihar government about harassing innocent Adivasis in this manner in the future.

Nevertheless, the harassment continued in all the predominantly Adivasi states of central-eastern India and elsewhere. At long last, the 'Forest Rights Act, 2006' was passed by the UPA government which avowedly aimed to set right the "historic injustice" done to Adivasis and other traditional forest-dwelling communities with regard to their traditional rights in forests. The Act declared that, all Adivasi families shall be entitled to two-and-a-half hectares (6.25 acres) of the forest land where they have been living and cultivating. It also declared that other non-Adivasi-forest-dwelling households, who have lived and worked in forests for more than three generations, would be entitled to similar ownership. Accordingly, it directed the government to set up adequate mechanisms to carry out the provisions of the Act. The government machinery went into action and set up the

three-tier scrutinizing bodies to verify the genuineness of claims: 1st Gram Sabha, 2nd Block-level and 3rd District-level committees. The format of the applications was also publicized.

A tremendous enthusiasm began to prevail among Adivasi-rights-activists who spread the 'good news' among the people living in forests. Thousands upon thousands of applications poured in claiming ownership of forest-lands they had inhabited. The future looked bright. However, the axe was soon to fall on their cherished dreams.

At the national level, 41 lakh applications were submitted over a period of a decade. Of these 18 lakh were approved; 3 lakh held in suspense, and 20 lakh rejected! In Jharkhand state alone, 30,000 petitions were submitted, 11,000 were granted ownership rights, 4,000 held in suspense and 15,000 rejected. In short, 50 per cent of all applications at the national and state levels were rejected.

The real point of concern is that most of the applications were approved by the Gram Sabha but got stuck at the Block level and even more at the District level. The reason for this anomaly is simple: the members of the Gram Sabha know each other well, they know who cultivates which land and for how long. So they approved most of the applications. On the other hand, the committee-members at the Block and District levels are mostly outsider-non-Adivasi-officers, most of whom have hardly any sympathy for Adivasis; in fact, a greater proportion of them would even be opposed to giving ownership rights to forest dwellers.

The cruellest cut of all was yet to come

Almost out of the blue, the honourable Supreme Court of India, in early 2019, issued a unilateral order to immediately evict all the Adivasi and forest-dwelling households whose applications for forest-land-ownership had been rejected by different states'

governments. It came as a bomb-shell to Adivasis across the country. This order of the SC was in response to a complaint petition by an ‘animal-lover’ accusing the Forest Department of failing in its duty to evict those whose petitions had been rejected. Tragically, the SC did not bother to find out if the process followed through the three-tier-system was valid, humane and just. Nor did it take note of the fact that if the 20 lakh families whose applications had been rejected are thrown out of their hearths and homes; where would they go to? Neither the central nor any of the state governments had worked out a rehabilitation programme for those who would be losing all that they had.

This most insensitive action of the SC evoked an overwhelming anger on the part of Adivasi societies throughout the country. Demonstrations, public meetings and protest rallies against state governments for not standing up to protect Adivasi and other forest-dwelling communities took place all over the country. Soon enough, the honourable SC agreed to review the case and directed all state governments to submit within six months a report about how they went about implementing the Forest Rights Act. At the time of writing, as of August 2019, not all state governments have submitted their reports. What the SC will do next is as yet unclear.

Animal life more precious than human life?

The Forest Department has now become energized. It wants to guarantee that wild animals will have an assured ‘corridor’ in the forests of India. Hence, it wants to make sure that no human beings will come in the way of animals. ‘Wild-life corridor’, ‘Elephant’s corridor’, ‘Tigers’ corridor’, and perhaps other corridors, will soon stretch across several districts of central India. The disastrous consequence of such romantic ecological initiatives might involve the displacement of thousands of mostly Adivasi-villages. As always, if hundreds of

villages would be forcibly driven out of their ages-long habitations in the forests, where will they go? Are there any rehabilitation measures prepared for them? There is a stunning silence on the part of the government and the judiciary regarding these issues.

Adivasi communities have, in their respective Gram Sabhas, resolved that they will not move. On the contrary, they have been claiming that they have lived all these centuries in harmony with nature and animals. They demand that this harmonious relationship be acknowledged and appreciated by the rest of society and that they be allowed to live in peace in the company of animals and all other organs of Mother Earth.

9

***Pathalgadi* equals Sedition: Adivasi tradition made
into a crime**

Pathalgadi literally means erection of a stone-slab. In age-old Adivasi tradition, when some significant and memorable event takes place, the village community would undertake a *Pathalgadi* at the entrance to the village and inscribe the name or event on the stone-slab being erected. This tradition is especially unique in *Mundari-speaking* Adivasi groups which are considered to be the earliest settlers in the Chotanagpur area of Jharkhand. Now off late, beginning from the mid-1990s, Adivasis have been going through a process of disillusionment with regard to both central and state governments and the capitalist ruling class insofar, as no meaningful socio-economic development has taken place in their ethno-territories. All so-called ‘development projects’ have left them weaker than before in every aspect of life. Since their land is mineral-rich, corporate houses and industrialists have been bent upon plundering their natural resources. Mainly, these processes have left them more impoverished and vulnerable.

Every mine that is dug, not only destroys the green forests, fertile lands and water bodies but also often displaces entire village habitations. No meaningful rehabilitation and resettlement of displaced people has ever been undertaken. Adivasi societies in central-eastern India have continued to be a prey to the greed of upper classes and castes.

Failure of the government to implement the PESA Act, 1996

Panchayats Extension to Scheduled Areas (PESA) Act, 1996, which was a fruit of Adivasis' long drawn struggle and their political representatives; and which for the first time, recognized the fact that the Adivasi societies in India have had a rich social and cultural tradition of self-governance, outlined the composition and functioning of the Gram Sabha. Whereas, the reality is that, this Act of Parliament has deliberately been left unimplemented in all the nine states with significant Adivasi populations. It means that the capitalist ruling class does not want Adivasi societies to self-govern themselves.

Understandably, the Adivasis have come to the point of saying 'enough is enough.' They are ready to take up the challenge of governing themselves. True, they have lost a lot of their land, forest and natural resources; and have not had a share in the mineral wealth which was dug out literally from beneath their feet by public and private sector industries. Still, they have some of it left with them and they have decided to keep it and use it for their own empowerment and emancipation: welfare of their present and future generations. Hence, from the mid-2000s, the Munda villages started undertaking *Pathalgadis* wherein they inscribed the powers of Gram Sabha as per the Fifth Schedule of the Constitution and the PESA Act. Most of the *pathals* include: (1) supremacy of the power of traditional Gram Sabhas, (2) rights of Adivasis over land and natural resources, (3) non-Adivasis and outsiders not allowed to independently move in Scheduled Areas or to settle down and work in their ethno-territories

and (4) Adivasis are the original inhabitants of India. Several *pathals* also proclaim voter IDs and Aadhaar cards as anti-Adivasi documents. The inscriptions read that any outsider must get the permission of the Gram Sabha before entering the village. What was initially a trickle, became a torrent, especially from 2015 onwards, and spread far beyond the Munda territory to other Tribes, not only in Jharkhand but also in the neighbouring states of Chhattisgarh and Odisha.

The respective state governments became jittery and started sending alarm signals saying, “Adivasis are in the process of declaring independence from the Indian Union and it amounts to ‘secession’ incurring the crime of ‘sedition’, paving the way for penal action against all those leading and/or participating in *Pathalgadi*-movement.”

The paramilitary and police forces started to forcibly enter the villages, especially where *Pathalgadi* movements had reportedly occurred, in the guise of catching Maoists. They even declared the whole movement as Maoist inspired. Some top leaders of the movement were imprisoned and FIRs were filed indiscriminately implicating thousands of Adivasi villagers. One FIR was filed against 11,200 unnamed villagers, a second one, against 109 named persons which included several traditional village-heads, and a third one, against 20 intellectuals, artists, writers, social activists.

It was surprising to see that I too have been included among the 20 intellectuals against whom the third round of FIRs were filed. We have been accused of having aroused the “poor, illiterate, ignorant” Adivasis to rise up against the state. True, I had made some minor interventions on social media, urging the government to have meaningful dialogues with the Adivasis of the *Pathalgadi*-movement and to find out why they have taken such a drastic step as *Pathalgadi* to register their resistance to the state. They surely would tell the government the reasons why and also the fact that they are doing

this within the letter and spirit of the Indian Constitution; and hence, theirs is not a secessionist movement but a resolve for local self-governance. However, unfortunately, my and other similar pleadings fell on deaf ears. More than a year passed, and no action was initiated by the government except increasing police repression, which has disrupted the normal and peaceful lives of people.

Suddenly in June 2019, soon after the present ruling party came back to power at the centre, the buried FIR was unearthed and an order was passed to arrest those named in the FIRs. Some of us approached the High Court of Jharkhand to quash the unjust FIRs. Hearings of these cases have been postponed time and again with no justice in sight.

Now, a zeroing-in process is afoot. From among the 20 of us, five have been pin-pointed and arrest warrants issued by the Khunti magistrate's court. My name tops the list. Soon thereafter, the same court proclaimed me 'an absconder', whereas I have not even been served an arrest warrant up until now. When this anomaly was pointed out by my lawyers in the HC, the police promptly pasted the 'absconder' notice on the front wall of my room at Bagaicha. The latest development is that the same magistrate court issued an 'attach property' notification against me. I, as a Jesuit, do not own any movable or immovable property. Prompt came the police action. In the last week of October 2019, the Jharkhand police raided my workplace-cum-residence and took away all my personal belongings including a cupboard, a table, three chairs, and a mattress-cum-pillow. Only a bare cot was left in my room. I am, now, left with my body, mind, conscience, and of course, the overwhelming solidarity from numerous friends, colleagues, and kith and kin. I am grateful to them all.

Why the Jharkhand police is so eager to single me out is a relevant question. Why the judiciary at the district and state levels are bending over backwards to oblige the police/government is another vexing question. Arguments that sought the quashing of the FIR were over; the HC judge, who had been dealing the case, was about to give his order; but suddenly the judge was changed and the first thing the new judge did, was to remove the interim relief from arrest given by the previous judge and to give a date for the next hearing; but when the hearing was about to begin, the state's Advocate General objected to the hearing and it was dropped by the judge... What does this all mean?

Just now, our main petition challenging the FIR has been put on hold, but the police's FIR against us, accusing us of provoking the Adivasis in the *Pathalgadi* movement to violence, has come to centre stage. The affidavit-cum-annexures submitted to the court are all geared towards establishing my alleged nexus to the Bhima-Koregaon case, meaning my alleged Maoist connections, and have little to do with the *Pathalgadi* case. The ultimate purpose seems to be to paint the Adivasis' peaceful assertion for self-governance as a Maoist-inspired revolt against the Indian state.

**They say, 'Truth will finally prevail'...but how long is it going to take... and how much damage is being done in the process...
Questions to ponder.**

10

**Silent footsteps that no one wants to hear:
Adivasi/Dalit youth migrating to southern states in
search of a way out of economic poverty and social
insecurity**

Migration is the silent footsteps of a people, searching for sources of livelihood. The rest of society does not want to hear these silent steps. Our present concern is with Adivasi and Dalit men and women migrating to the southern Indian states of Kerala, Tamil Nadu and Karnataka. We will discuss the following: (1) the main trends; (2) the reasons why; and (3) the hardships they endure.

The main trends

There are three types of migration waves taking place in the predominantly Adivasi states of Central-Eastern India: the **first** is the migration of young Adivasi women to metropolitan cities. The reason is that, there is nothing at home to occupy themselves with, in a profitable and meaningful way. After the yearly mono-crop paddy is harvested in their tiny plots of land, they find it would suffice to feed them only for a few months. So instead of sitting at home idling

and starving, it is better for them to go to a town or a city; to work as domestic help in urban middle class households to earn some money for self and family. So they get in touch with middlemen/women and take off, sometimes without even informing and getting the consent of their parents. They land up in cities completely unaware of city-life. Who would their employers be? What would be the nature of work, amount of remuneration, living condition, etc.? Some of them never come back, some being sold off to brothels, and some others might be forcibly married to elderly men in northern states. A sizeable number of them do keep in touch with their families and send some money regularly or keep it and come home with a lump sum amount. Sadly, many of them face a social boycott by the village community insofar as, they are considered polluted by outsiders to the point that getting married locally and settling down becomes difficult.

The **second** wave is the migration of entire families to northern states. June to December is the monsoon-fed agricultural season in the central-eastern states of India. However, the food produced is insufficient to feed the family for the whole year; and in most villages, irrigation facilities for a second crop have not been developed. Land dispossession, state repression against resistance to displacement, and mining and industrialisation that use Adivasis, mostly as cheap labourers, only are further factors. As a result, between December and June each year, tens of thousands of Adivasi families leave their hearths and homes to temporarily find work in construction sites, brick-kilns and so on. Only some elderly members are left behind to care for the cattle. The government ignores this annual exodus.

The **third** wave is the recent exodus of Adivasi/Dalit youth to southern states as casual or contract labourers. Hundreds of thousands are residing in Karnataka, Kerala and Tamil Nadu. They go there, either through contacts or friends, who have already been there.

Often, they are taken in batches by contractors/middlemen. Kerala alone has about 35 lakh (3.5 million), and Tamil Nadu 10 lakh (one million). They are employed, for the great part, in construction (roads, buildings, etc.) works, whereas smaller numbers are also employed in other small industries, hotels, agriculture and as domestic helps.¹⁵

The reasons: Why?

How to explain and understand this recent phenomenon of migration to southern states? There are two main reasons. The first is **deepening poverty**: while the Indian economy is said to be growing at the fastest rate, poverty is deepening in rural remote Adivasi belts of Central-Eastern India. During the past two years, at least 21 members of Adivasi/Dalit societies have died of starvation in Jharkhand, which the government refuses to accept as 'starvation deaths'. On the contrary, the state machinery attributes their death to some disease or illness. Nature has blessed Adivasi regions with tremendous natural and mineral wealth, which has now become a cause of their curse. The Indian state, controlled and directed by the corporate sector, is bent upon excavating the mineral wealth at all cost. The protective constitutional provisions, laws, policies and judicial verdicts meant to protect Adivasi, have been thrown to the winds. Meagre cash compensation for their land is thrown at them, while they are forced to vacate their hearths and homes. Hence, the younger generation of these societies look elsewhere for survival, and the southern Indian states seem to offer some limited chances in terms of contract/casual labour.

The second reason relates to **resistance to the processes of dispossession and simultaneous increase in state repression**. The exploited people are reaching a point of saying 'enough is enough'. The *Pathalgadi* movement is a telling example. Resistance movements that spring up against the unjust, illegal, forcible acquisition of *jal, jangal*,

jamin have always found an echo among the people at large, reflected in the formation of umbrella-organisations against displacement, violation of their right to food, denial of civic rights, exploitation of women and children, trafficking of young women, and unjust measures like *land bank*, which take away community rights over ‘commons’. The resistance of affected people, thus, receives solidarity and support from human rights groups, several Adivasi-organisations, leftist/socialist forces, some Jharkhandi Adivasi parties, concerned intellectuals and some legal professionals. However, proportionate to people’s resistance, the state’s repressive interventions have also been increasing. A small state like Jharkhand has several hundreds of young men and women in its prisons accused as Maoists/Naxals. Any young man/woman who openly expresses dissent to what the state is doing can be labelled as a ‘Naxal’ and thrown into jail. It is becoming increasingly difficult for a young man to live peacefully in his village: either he would be approached by local Naxals to join them; if he declines to join them, he might be liable to be beaten up or eliminated by labelling him as a ‘police informer’; or the police would pounce on him sooner or later calling him a ‘Naxal’ or ‘Naxal-sympathizer/helper’ to be picked up and thrown behind bars. This precarious situation causes many young men to want to get away from such situations of insecurity, at least for a while, and to try and earn something for his family. Hence, they come to the southern states of India in waves.

The hardships they endure

Those young people, migrating to the southern states, hail from the central-eastern Indian states of Chhattisgarh, Jharkhand, Odisha, Bengal, northern state of Bihar and the north-eastern state of Assam. Leaving aside Bihar, all the other states are predominantly populated by indigenous Adivasis. They have their own culture,

tradition, ways of agriculture, intimate relation to nature and forest, strong community-identity, unique world-view, and their own cherished languages. When they come to the south, they are abruptly thrown into a very different world which contrasts with their own in numerous aspects. And this 'other world' does not look upon them kindly either; it looks at them with indifference and apathy, if not outright animosity. Yet, these migrants have to put up with all these alienating factors and continue to pursue their one single goal of earning some money for the welfare of their families back home.

Some concerned individuals, organisations and institutions have come forward to reach out to the migrants, often filling the vacuum left by the respective state governments which, though having the statutory obligation to look after these people, in reality fail to do so. Some sample studies have been done which cover the various aspects of the migrants' life, their working and living conditions, the language barriers, their efforts to socially integrate themselves into the society wherever they are, remuneration in terms of just/unjust wages, the extent to which they are actually able to help their families back home, and their expectations with regard to their future.

An article titled '*Adivasi youth migration from central and eastern states to south India: opportunities and challenges*'¹⁶ sums up the findings of six case studies conducted in the southern states. It brings out the following points of concern:

- i. Exclusion of migrant Adivasi youth from benefits: Physically isolated from the surrounding communities, it is difficult for them to find out the local wage rates, and rights and support systems available to them. They are excluded from government schemes to varying degrees, from formal residency rights, documents to prove their identity, political representation, adequate housing, financial services, public distribution system, membership in

trade unions, public health facilities, education and other basic amenities such as water and sanitation.

- ii. Exploitation of migrant Adivasi youth: Adivasi women, especially those working in garment factories, undergo high levels of sexual harassment, verbal abuse and humiliation. Factory hostels deprive women and girl workers of their rights to privacy and liberty. Most Adivasi youth suffer from low wages, long working hours and lack of safety measures; they have often been made to take up more difficult, hazardous and menial jobs compared to local workers.
- iii. Xenophobia and migrant Adivasi youth suspected as Maoists: Dislike of foreigners, a sentiment influencing the general public, makes the local population conclude that migrant Adivasis are Maoists and as such, one should keep away from them. There are instances where they easily become suspects when some theft takes place in the neighbourhood.
- iv. Bonded labourers among migrant Adivasi youth: The intermediaries often exploit the helplessness of Adivasi youth by giving certain advance payments and forcing them and their families into a kind of bondage or trafficking. Those, thus, trapped are forced to work 12-16 hours a day with very little or no wages. There are reported cases of bonded labour in Karnataka, Tamil Nadu, Telangana, and Andhra Pradesh.
- v. Adivasi girls trafficked: The traffickers are often agents of sex-rackets who literally buy girls from their parents and sell them to brothels at handsome rates. Media reports in Karnataka state once reported, 150 such trafficked and bonded girls from just one agency. Who and how many such agencies are operating has still not come to light. A heart-rending situation.

vi. Accidents and loss of lives: They are vulnerable to health hazards and infectious diseases as their working and living conditions are deplorable. Lack of access to health care takes a heavy toll. Housing conditions are appalling as they are made to live in hovels alongside heaps of filth and mud. No proper arrangements for toilet, drainage, ventilation or provision of clean drinking water are made. Owing to these factors, they are highly prone to accidents and deaths. When accidents occur leading to serious injury or death, they are denied rightful compensation. A newspaper reported that in 2013, in Kerala, at least 50 dead bodies of migrant workers were brought to hospitals for post-mortem every month. One consoling fact, is the construction of long tenement houses with basic amenities for migrant workers by the present government of Kerala. Will this fine example be emulated by the other states?

Back in the year 2000, when the Union Home Minister introduced the Bill in Parliament for the creation of the states of Jharkhand, Chhattisgarh and Uttarakhand, he solemnly announced that these states were being established so that the Indigenous Adivasi societies will be able to self-govern themselves as per their traditions and culture. It was also hoped that they would have a real say and a meaningful share in the mineral wealth being exploited in their land. However, what actually came to be was just the opposite. Multitudes of outsiders from neighbouring states poured in, took over all trade related and commercial activities, filled up most state government's high and low bureaucracy, and the law-and-order forces became replete with unsympathetic non-Adivasis/Dalit. The giant corporate houses came marching in with full patronage of the central and state governments to plunder the natural and mineral wealth of predominantly Adivasi ethno-territories. The Indigenous people felt let down and cheated. Most of their own political leaders, instead of standing up for their

cause, sold themselves off to power and money, some even joining hands with rightist Hindutva forces/parties to work directly against their own people.

Such is the predicament that forces the Adivasi youth to migrate in their thousands to the southern states. The above-mentioned six concerns point to serious violations of Adivasis' and Dalits' labour, human and constitutional rights. This gives a clarion call to all civic-minded individuals, groups, organisations, institutions, people's movements, trade unions and political parties to make concerted efforts to ensure human, constitutional rights and labour rights to the Indigenous Adivasi/Dalit migrant youth, wherever they may be.

11

**Why Truth has become so bitter, Dissent so
unpalatable, Justice so out of reach?**

The harrowing experience of being filed an FIR, being issued ‘arrest-warrant’, being declared an ‘absconder’, being raided and personal belongings taken away.

At 4 pm on the 27 June 2019, my Jesuit confrères rushed into my room and told me to pack my belongings. I asked them, “Why?” They said, “There has been a report of your and four other Jharkhandi activists’ ‘imminent arrest.’” They come to know this from the local police station. I was told that the police might land up at any time to arrest me. My spontaneous reaction was, okay let them come and take me, after all, have there not been thousands of Adivasi/Dalit youth languishing in the jails of Jharkhand with no succour reaching them. But they prevailed over me saying that I/we might be able to help them more effectively by staying outside of jail, to legally challenge unjust police action, by pursuing the case we had already filed in Jharkhand High Court. I very reluctantly agreed and put a few things into a

small bag without knowing where I would be going, for how long, and who would be willing to take me in. The following day, I landed up in Bangalore, where there were some friends/comrades who not only received me but welcomed me warmly in their midst. Indian Social Institute, Bangalore had been the epicentre of my initiation into Marxian tools of social analysis decades ago. As such it was kind of home-coming for me. Quickly, I got in touch with those old comrades who have endured hard times but consistently kept up their commitment for the cause of the deprived and marginalized people of our society. It was exhilarating to meet them, share our experiences of past decades, assess the present socio-political dynamics; always looking for allies with whose solidarity we can push forward.

This search led me to different places in Tamil Nadu, Kerala and Karnataka, meeting people in small and big groups. All were eager to understand the situation in the tribal belts of Central-Eastern India, as they had been seeing so many young men and women from these states doing odd jobs; especially, big numbers in construction work sites, a few at small hotels, and many at embroidery units and working in agricultural fields. Their predicament is elaborately described in my write-up 'In search of a livelihood...' elsewhere in this booklet.

Grieved as my friends and comrades were to hear the tragic tales from the states of origin of these 'migrant workers', my socially-concerned friends asked me how they could help them as long as they are in their midst. I suggested and prayed to them that they take some time out to meet and talk to them wherever they see them. This would certainly help these young men and women to realize that, at least some people in the south are humanely concerned about them and their wellbeing. Sure, one cannot do much as individuals. I proposed to them that they can form some groups and meet the migrant workers in their places of work and living. This will enable them to know whether

the migrant workers get at least the minimum wage, understand their living conditions, the availability or non-availability of health services when they get ill/sick, and if they face any harassment from their employers, contractors, middle-men, and so on. I persuaded my friends, once they had got to know the actualities, to take significant issues to the general public through local print/electronic media and to take up specific cases of exploitation/cheating with relevant government officers and public personalities. All my friends assured me that they would do whatever they could. This is a little solace in the face of the enormous difficulties the migrant labourers are facing.

Multiple police cases, including ‘sedition’, chasing me

How can a comment on social media (Facebook), which the Supreme Court has declared a part of ‘freedom of thought and expression’ (Article 19, 21 of Indian Constitution), be made out to be a case of ‘sedition’ is beyond comprehension. I had made two comments on Facebook, when in mid-2018, the state government was harassing the Adivasis of Khunti district for their assertion of right to self-governance as per the constitution and PESA Act. People were beaten up, houses raided, cases filed on 11,200 unnamed persons and 109 named persons including tribal village heads. They were all accused of sedition. Seeing this, I felt I could not keep quiet. So I, through social media, reminded the Jharkhand government of the suggestion already made by the then Union Home Minister: “Where *Pathalgadi* is taking place, let Jharkhand government enter into a dialogue with them to find out why they are doing this”. In addition, in an interview to electronic media, I quoted the three-time M.P. of Khunti, an Adivasi himself, who had said: “If real development of Adivasis had taken place, *Pathalgadi* problem would not have risen at all.” I had written on my Facebook page that the state government might do well to go to the people and have dialogue

with them. What was wrong in doing this on my Facebook page and how it amounts to sedition is beyond my comprehension. But the hard fact is: I, together with 19 other writers, journalists and human rights activists were booked for ‘sedition’! The legal experts whom we consulted on the matter told us that the government really has no case and that it should not have even taken this issue to the court. And it was left at that. No affidavits or charge sheets were filed by the state.

Alas, a good one-and-a-half year later, suddenly the Khunti police approached the lower court and got an order to arrest just five out of the 20 of us. My name was 17th in the original list, but I was made number one in the ‘arrest-warrant’. *Is there not a well-designed plot behind this?*

Unfortunately, the Jharkhand police proclaimed in court that I was an ‘absconder’ and was evading arrest. That was far from the truth. *I was not absconding.* Moreover, my physical absence, did not, in any way, impinge upon the court proceedings. Even if a modicum of truth would be acknowledged, the HC should have quashed the FIR.

Alas, the last blow came towards the end of October 2019, when the Jharkhand police raided my residence and took away all my personal belongings. A ray of light came to shine insofar as the new Jharkhand government, within hours of taking office (in December 2019), held its first cabinet meet and decided to withdraw all cases related to the *Pathalgadi* movement and the agitations against the amendments to the Chotanagpur and *Santhal Pargana Tenancy Acts*. Although the decision was announced, its implementation through judicial process is yet to take place (as of mid-March 2020).

The Bhima-Koregaon case has been haunting me and some eminent legal professionals, authors, poets, cultural artists and human rights activists. As mentioned earlier, the case is actually a plot by powerful Hindutva forces to save the embarrassment of its leaders who incited communal

violence against the Dalit community as they celebrated their annual festival *Elgar Parishad* on 1 January 2018 at Bhima-Koregaon. Initially, a case was registered with Pune rural police against two Hindutva leaders. However, it was left in cold-storage and instead, a follower of one of the two accused, filed a ‘complaint case’ with the Pune urban police accusing the above-mentioned intellectuals of instigating the Dalits to violence. Consequently, a witch-hunt was launched. Nine of these well-known and committed activists and writers were sent to Pune jail, two others got interim relief from court, and I am still a ‘suspect.’ I’ve been raided twice by Pune urban police, who have been looking for ways to implicate me.

Where will this all lead to, will there be an end to this harassment; and when will that ‘end’ come? It is hard even to guess. But even now, irreparable damage has been done to all the accused and incarcerated: their reputed standing in society has been seriously affected; their financial assets have dwindled, thus, severely affecting their respective families; even after more than a year in jail, the nine accused are being denied bail; the clients of the lawyers, the reading public of the authors and poets, the marginalized and deprived people in various people’s movements and organizations who were helped by human rights activists, and the audiences which were inspired by the cultural artists, are painfully missing their presence in our midst.

Will, at least, the highest court of the land uncover the truth and expose the malignant conspiracy of Hindutva forces and thus come to our rescue? This is the flickering hope that is still being nurtured. A sparkle of light has come from the new State Government of Maharashtra, when it announced that it would withdraw the Bhima-Koregaon-related cases. Announcement by government has been made. However, the judicial process is yet to begin.

12

Interrogation of Fr. Stan Swamy on Bhima-Koregoan Case by the National Investigation Agency

I am Stan Swamy, a Jesuit Priest, aged 83 years, from Jamshedpur Province in Jharkhand state of India, and a Human Right Activist, especially defending the constitutional and human rights of Adivasis (India's indigenous peoples), for the last 40 years. I was the Director, a trainer and an activist at the Indian Social Institute, Bangalore for several years. Later, I moved to Jharkhand and was associated with the JOHAR (Jharkhandi Organization for Human Rights) at Chaibasa for a few years. Then I moved to Ranchi, the capital of Jharkhand state, and founded Bagaicha, a Jesuit social research and training centre at Namkum, Ranchi. I have been active at Bagaicha for the last 15 years. I have been working in collaboration with people's movements that were working against unjust displacement, human rights violations, illegal land acquisitions, and policies that were designed or amended to acquire more land, making the indigenous people landless. I have been writing and supporting the struggles for the implementation of

the Fifth Schedule of the Indian Constitutions, implementation of the provisions of *Panchayats Extension to Scheduled Areas (PESA) Act, 1996* and the Samatha Judgment by the Supreme Court of India, and promoted the concept of ‘Owner of the land will be the owners of Minerals therein’. Recently, I facilitated a research on the under-trial prisoners in Jharkhand. Based on the findings of the research, a PIL was filed at the Jharkhand High Court, WPC (PIL) No 4212 of 2017, praying for the release of about 4,000 tribal youth languishing in various prisons of Jharkhand.

As a strange surprise, on 28 August 2018, my room in Bagaicha was raided by Pune Police saying that my name had appeared in an FIR in the riot case at Bhima-Koregaon,¹⁷ along with eleven others. During this raid, my laptop, mobile phone, a few CDs, documents and files were confiscated by the Pune Police. Meanwhile, I was getting news that a few other well-known and committed social activists, human right lawyers and writers too have been subjected to raids and imprisonment for the past two years, without framing of charges, a step that precedes trial of a criminal case, all in relation to Bhima-Koregaon riot case. After about 10 months, since the first raid of my room, once again my room was raided, on 12 June 2019. In this instance too, the hard disk (internal memory) of my computer, mobile phone, my email and social media accounts were confiscated.

In the meantime, in Jharkhand, the government headed by the BJP, filed an FIR against me and 19 other activists based on a Facebook posts relating to *Pathalgadi*¹⁸ movement in Khunti district, Jharkhand (CC.No 124 of 2018, dated 26.07.2018). The FIR accuses us of inciting violence through Facebook posts during the *Pathalgadi* movement. Though this FIR was filed in the month of July 2018, it was never pursued. But, suddenly in the month of July 2019, it was activated, after the second raid in my room by the Pune police.

Since the case against us was merely based on our Facebook posts, we appealed to the Jharkhand High Court to quash the case against us (Cr.M.P No 3183 of 2018). However, the Khunti police have submitted an annexure, received from the Pune police, to Jharkhand High Court to support the Khunti police's allegations against me. This annexure contains materials to the effect that I was one of the accused in Bhima-Koregaon case. To my surprise, during the hearing in the High Court, the Advocate General referred to me as a 'dreaded criminal'. Such actions reveal collusion between the BJP governments, in both Jharkhand and Maharashtra to bring about the confluence of both cases. In the meantime, the Khunti Court had issued a non-bailable arrest warrant against me. The Police in Khunti conducted the "attachment of property" in the month of October 2019; it took away two tables, a steel shelf, three plastic chairs, a mattress, and a pillow! The Jharkhand High Court, on 6 December 2019, declared that proper procedures were not followed as per Code of Criminal Procedure. When the non-BJP government in Jharkhand was formed by the end of December 2019, it announced that it is withdrawing all cases relating to *Pathalgadi*. The procedures for the same have not yet been completed.

The new non-BJP coalition government in Maharashtra had ordered the Maharashtra police to review and speed up investigation and trial of Bhima-Koregaon riot case. On 1 January 2020, a top leader of the National Congress Party, a coalition partner, commented that the Bhima-Koregaon case was baseless and should be withdrawn. However, the BJP government at the centre intervened and forced the Maharashtra government to handover the case to the National Investigation Agency (NIA). Once the NIA has taken over the case, there has been widespread arrests of intellectuals and raids at the homes of top human right activists, professors and lawyers. The NIA has been interrogating more and more committed citizens in various

parts of the country. The period of their interrogation ranges from three to six months.

The following is a detailed and date-wise documentation of the interrogation done with me, by an NIA investigating officer at my residence from 25 July 2020 onwards. I was interrogated in detail by NIA on 27, 28, 29, 30 of July and on 6 August 2020. So far, a total of about 15 hours sessions were gruelling. On 27 July, on the first day the questioning by a one-man team from 1 PM to 3 PM, allowed me to have lunch only at 3.00 PM. The following day interrogation went on for five hours with a 45 minutes break for lunch and rest. On 29 July, again the interrogation was for 3 hours and the following day, the session lasted for two hours.

On 25 July 2020

Following is the text written by Fr. David Solomon, the Director of Bagaicha, who actually first received the visitor of National Investigation Agency:

“On 25 July 2020, two men landed up in Bagaicha. A person was asking for Fr. Stan Swamy from Ms. Sugia Horo, one of the office staff. She told him to give his name and address and the place he is coming from. He refused to give. He was insistent that he meets Stan. Our office staff kept asking the two persons to give their names and one of them began raising his voice to tell her to call Stan. I was listening to their conversations from my office. As the staff kept insisting and the guest was not relenting in giving the information, I asked the staff to send the two men to my office. As soon as they landed up, one of them asked me, “Where is Mr. Stan?” I asked him, “Who are you?”. He did not reply to me properly. I told him, “Please be seated”. He sat down. Then in an arrogant manner told me, to call Stan; I got up to go and then I asked him, ‘Please show me your credentials’. Then he took out an identity card hanging around his

neck and showed me, in which the name Diwarkar Mishra, NIA was written. I asked the other person too, to show the identity card, from which I remember the name as, Chandan.

Thereafter, I took both of them to a place where chairs and a table are placed in a common place. I, then, went to Stan's room and told him that an NIA officer has arrived. He got up calmly and began moving. I stood and took up my phone to ring up to Fr. Xavier Soreng, who is the Secretary of this organization (Bagaicha). I informed him. Mr. Diwarkar, having seen me making a phone call, began yelling and shouting arrogantly at me saying, that he could arrest me for phoning up to people to inform them of their arrival. I told him, 'Sorry, we belong to a religious organization and we do have our superiors to be informed'. Then Mr. Diwarkar spoke to Stan. He firstly informed Stan that they are coming from the National Investigation Agency. He asked Stan to bring his identity card. Stan again walked to his room and brought his voter identity card. Mr. Chandan took a photo of the voter identity card. Then, Mr. Diwarkar informed Stan that he would visit him soon to ask some questions about a case for fifteen minutes. Then Mr. Diwarkar went out to make a call over his phone to someone for some time. He came back and informed Stan that he would come on another day and talk to him only, perhaps for fifteen minutes. Then both of them left Bagaicha. While leaving Mr. Diwarkar apologized for being a bit arrogant with me. I told him, "You did your duty."

27 July, Monday for 2 hours – Day 1 of actual interrogation

Interrogator: I would like to have your biodata, from beginning up to now.

Stan: I gave a brief narrative, starting from the place of my birth, early education, college studies and my entrance into the Society of Jesus, in 1957.

Int: Please tell me what all studies and in which universities you have done?

Stan: I had done my post graduate studies in sociology at the Ateneo De Manila University in the Philippines. Then, I had also done some special studies in social analysis in Louvain University, Belgium.

Int: When did you start your social involvement?

Stan: My social involvement started from 1975, when I worked at the Indian Social Institute, Bangalore, which is a social centre for social activists who were involved in their respective communities. Most of those who came for the training were from the deprived sections of society, namely, Dalits and Adivasis. In 1990 or 1991, I reached Jharkhand and I was asked to revive a social organisation, by name JOHAR, which was founded in 1989, but had then become inactive during the course of time. By 1995, JOHAR became active again and I worked for five years with some committed Adivasi youth, taking up different issues of the Adivasi people who have been facing issues such as, displacement by mining companies and a host of other exploitative forces. Jharkhand became a separate state in the year 2000 and some of the leaders and the intellectuals felt the need that we should have a centre at the state capital Ranchi. Thus, originated the idea of Bagaicha and I have been here up to now.

Int: Which all countries you have been to and for what purpose?

Stan: I have been to Belgium to participate in a conference. I have been to Philippines to attend some conventions. All these meetings were focused on, to understand what was happening in the so-called 'third world', economically and politically.

Int¹⁹: What do you know about Naxal movement?

Stan: I am a trained sociologist. Hence, I have been keenly observing the Naxal²⁰ movement. I know about its origin, growth and the present

situation as a social scientist. However, I differ from the Naxalite ideology and do not agree with its methodology and therefore, I have nothing to do with it.

Int: What about Operation Green Hunt²¹?

Stan: It was a policy of an erstwhile government, which in the name of containing Naxalism, indiscriminately threw into jails, large numbers of innocent young men and women. Majority of those killed/imprisoned were Adivasis. There were large-scale protests against it, all over the country.

Int: What about Jammu-Kashmir?

Stan: I know it as a vexing issue but did not/do not have any relation to it. I have nothing to do with Jammu-Kashmir issue.

Int: What relationship do you have with those who are accused on the Bhima-Koregaon case?

Stan: I know some of them personally and others I know through the media and their writings.

Int: Do you know Sudha Bhardwaj²²?

Stan: Yes, I know her in the context of the research on under-trials and later when I was pursuing legal action to help the under-trials and formation of Persecuted Prisoners' Solidarity Forum (PPSC), that I undertook.

Int: What about Saibaba²³?

Stan: I have seen and heard Prof. Saibaba only at a meeting in Ranchi organized on the issue of displacement many years ago. As I have been engaged with the issue of displacement, I went for the meeting and participated like any other interested person on displacement issue. The meeting took place long ago and I am not able to recall the date of the meeting now.

Int: Do you know Nandini Sundar?

Stan: Yes, I know her, and I know her personally. She is a scholar and professor at Delhi University. What attracted me to her was her strenuous and persevering efforts to get justice for Adivasis of Bastar district in Chhattisgarh. In my view, Salwajudum²⁴ had wreaked havoc to the Gonds and other Adivasis, wherein not only the Adivasi communities were divided but put them one against the other. About 600 adivasi villages were burned down and people had to flee for their life. Nandini Sundar studied the whole situation and filed a case against the then Chhattisgarh government in the Supreme Court. Finally, the Supreme Court issued an order disbanding Salwajudum and ordering the state government to rehabilitate Adivasis. Sometime later, Prof. Nandini Sundar had come to Ranchi and I had an opportunity to meet her.

Int: Who is Partho?

Stan: Partho is a scientist in Kolkata. He is doing research on medicine for cancer. He is also a committed member of PPSC. When he heard about my appeal to help out the under-trial prisoners, he also turned up for the meeting.

28 July – Tuesday – Five Hours

Int: Tell me about Persecuted Prisoners' Solidarity Forum (PPSC)?

Stan: During 2014-15, indiscriminate arrests, of mostly Adivasi and Dalit youth, were taking place. We realized this was the case in all the tribal dominant states of central India. I called on whoever I knew being involved for people's rights to come, so that we could reflect on the nature of the intervention we needed to initiate. The response was good, especially from lawyers. We decided to form a common forum by name, 'Persecuted Prisoners Solidarity Committee' (PPSC), so that we could intervene judicially, on behalf of Under-Trial

Prisoners (UTPs), seeking immediate bail and speed up trial. The group asked me to be the convener of this forum. Soon thereafter, based on the findings of our study of UTPs in Jharkhand, a PIL was filed in Jharkhand HC, me being the main petitioner. Even as the HC admitted my petition, it ordered the State government to furnish all the information about all the UTPs in Jharkhand. It is now more than two years, but the state is yet to submit the needed info adequately. On the other hand, Jharkhand state decided to put me out of its way, by implicating me in a case, merely based on my comments on Facebook related to *Pathalgadi* movement. While on the other hand, the Pune police have implicated me in relation to Bhima–Koregaon riot case, to which I have no connection at all.

Int: Tell me about the Bhima-Koregaon case?

Stan: I have never been in Bhima-Koregaon in all my life. I also know that the Pune police have been in contact with Khunti police and an affidavit about me made by the Pune police was presented in the annexure of the case in relation to *Pathalgadi* movement at the Jharkhand High Court. Actually, it is just a case to silence me.

Int: Tell me about *Pathalgadi*?

Stan: *Pathalgadi* is a part of the cultural tradition of Adivasis in central India. The Mundari speaking Adivasi group in Khunti district of Jharkhand was using the stone slab, being erected as *Pathalgadi*, to inscribe their constitutional rights mentioned in the 5th Schedule and PESA Act, 1996 of the Indian Constitution, to assert their rights to self-governance. However, the state government took this *Pathalgadi* movement as a case of sedition against the State and deployed the paramilitary forces in those areas to suppress the movement. Some activists, (20 of us) including me, had posted what we thought about the state's reaction to *Pathalgadi*. In fact, I had made two comments on my Facebook page: (1) the erstwhile Home Minister of Central

Government, when he was asked about the *Pathalgadi* issue by some media personnel, said, “Wherever the movement has been happening, the state governments should enter into a dialogue with the people”. I had added a comment to his statement, saying, “It was sad that the Jharkhand government, instead of dialoguing with the people, was attacking them”; and (2) A local three-term Member of Parliament (MP), Sri. Kharia Munda, was asked about the *Pathalgadi* issue. He responded saying, “If development had taken place well among Adivasis, the *Pathalgadi* movement would not have arisen”. I had added a comment to this as well, saying, “The local MP himself had testified that real development of Adivasi society had not taken place. So, it will be better for the Jharkhand Government to focus its efforts on the real development of Adivasis.”

Based on these two comments of mine on my Facebook-page, the State government filed an FIR against me, in July 2018. The names of 19 other activists are also mentioned in the FIR, for their posts on their Facebook relating to *Pathalgadi*. Interestingly, among the 20 of us, whose names are mentioned in the FIR, an arrest warrant was issued only on four of us, on 19 June 2019. However, towards the end of June 2019, I had gone to South India as I had planned long ago, to meet my kith and kin and friends and to attend to some health problems, I have been suffering with. In the meantime, the Khunti police, even without taking the trouble to verify my whereabouts, declared me as an ‘absconder’. Finally, on 21 October 2019, my living room was raided and whatever they found in my room (2 tables, three chairs, a shelf where I kept my belongings, and my mattress and a pillow) were taken away. Against these illegal actions – issuing of an arrest warrant, declaring me as an absconder and attachment of my property – I had filed a case in the Jharkhand High Court (Cr. M. P No 3183 of 2018), praying that it restores my self-respect and dignity. On 6 December 2019,

the Jharkhand High Court in its Order stated that proper procedures were not followed as per Code of Criminal Procedure. The Court also mentioned in its Order, however, that the lower Court could proceed with the matter adhering to the Code of Criminal Procedure.²⁵ This is where I stand with regard to this case. Interestingly, the new government of Jharkhand on 29 December 2020, soon after the swearing in ceremony, held a Cabinet meeting and decided to withdraw all the cases relating to *Pathalgadi* in Jharkhand. Although, the decision has been made, the judicial processes to this end has not yet been completed.

Int: These are some extracts taken from your computer (he shows the monitor of his laptop) which seem to relate you with leftist forces?

Stan: Please show them to me. *(He pulled out the extracts of some communications from his laptop and placed them before me. An extract supposedly taken from a folder titled, "Earth Summit",²⁶ in my computer wherein an appeal from some Naxal was made to celebrate the 50th anniversary of the origin of the Naxalbari movement. They were inviting Stan to participate in the celebration).* I flatly disowned these extracts and affirmed that they have been interpolated into my computer.

Int: Nothing of that sort can take place with the NIA, because NIA is an organisation of integrity, and strictly follows the prescribed cloning process. (He was a bit excited when he said this).

Stan: I am not questioning the integrity or the lack of it with the NIA. But the fact is that the NIA took over the Bhima-Koregaon case only in January 2020 from the Pune police which had been handling the case from August 2018. Would you also vouch for the same integrity for the Pune police as you are vouching for the NIA?

Int: (He was silent for some time and then reiterated) "We as a police force is an integral body. Our work is to protect people and we keep our integrity." (Then, he stood up to leave the place for the day.)

Stan: I agree with you that Police are expected to act with integrity. What about the recent incident in Tamil Nadu wherein a father and his son, because they kept their shop open for a few extra minutes after the lockdown time, were arrested, beaten up, tortured and killed? The Madras High Court has taken *Suo Motu* cognition of the case and has ordered a CBI enquiry into it?

Int: Locally something can go wrong, but the police force as such is an integral body. (Then he left the place.)

29 July 2020 Wednesday – 3 hours.

Int: Tell me about Bagaicha and its activities?

Stan: Bagaicha, in Adivasi tradition, is the place the community gathers, discusses whatever needs to be discussed and comes to a consensus decision. This is the name we have given to the centre, so those who come here will go back to their communities ‘with one mind’. Mostly Adivasi and Dalit activists come here to: (i) Scientifically analyse and understand the problems/issues they are faced with, (ii) Search for effective ways of educating, mobilising the people, (iii) Take it before the relevant government office/department, asking for immediate attention and (iv) If government administration fails them, then to plan and act how to seek judicial remedy. Bagaicha has been trying to accompany the people in solidarity.

About the activities of Bagaicha, we recently have started a Migrants’ Desk, and its intervention during and after the recent lockdown, due to the coronavirus pandemic was significant. It was necessitated by the sudden declaration of lockdown, throwing millions of migrant workers out-of-work, shelter, food and forcing thousands of them walk on highways and railway tracks for hundreds of kilometres. Our Migrants’ Desk (MD) is linked with governments, NGOs and human rights groups, to reach out to the migrants to offer immediate relief

in the form of food and shelter and help them to reach their homes. We have helped at least about 6,000 persons, who were in precarious situations. Lakhs of them have reached home, but is there anything in their homes to sustain them and their families?

Int: Oh, Migrants Desk is doing a good work. What other activities do you have at Bagaicha?

Stan: Another activity being carried out through Bagaicha is called Lok-Manch (LM). The government has many schemes, projects and programmes for the disadvantaged persons and groups, but the poorest of the poor who live in interior villages are not even aware, much less avail of those schemes. LM workers help them to know and avail of these opportunities. As I am not a member of LM, one of our staff who is in it, will explain it to you in detail. (Ms. Rosemary Nag, Lok-Manch campaign facilitator, was called to explain the type of the work done by the Lok-Manch partners. She explained about her role of coordinating the activities, in different units, regarding the implementation of MGNREGA²⁷, enabling villagers to access various pensions and other social security schemes of the government. She added that her duty is to collect the reports from partner organisations and provide them to the central coordinating team.)

Int: There are again a whole series of communications; reports by ultra-left parties that were found discovered your computer? What do you have to say about them?

Stan: I have no knowledge of any of these communications and I have nothing to do with them. They are interpolations. (Once again, the interrogator began taking up copies letters saying that these letters were from my computer. These letters were relating somehow to the so-called “ultra-leftists”. I always stood my ground; I pointed out that only in the context of the formation of PPSC I came to know people like Prashant Rahi (a social activist and writer), Adv. Sudha Bharadwaj

and Adv. Shiv Prasad Singh (an advocate practicing in Jharkhand High Court, a member of PPSC) who helped us to form and activate PPSC. With this, the day's interrogation was concluded).

30 July 2020, Thursday - 2 hours.

Int: What are the facilities at Bagaicha and who are the other members and their activities at Bagaicha?

Stan: The place where we are sitting is the administrative block. It houses the main office, library documentation and a few living rooms for the Jesuit staff. The building towards the north is the dormitory, where the participants who come for various programmes, stay for the night. In the south, is the building with ground floor as a dining hall and on top of it, is a meeting hall. As regarding the personnel, Fr. David Solomon SJ is the Director, Fr. Sebastian Lakra SJ is the administrator and I, Stan Swamy, am a staff member. Ms. Sugia Horo is the programme coordinator and office assistant. Then, there are three other staff members, who help out with the maintenance such as, preparation of food, cleaning and gardening.

Int: There are more letters I need to discuss with you. These letters are from your computer. (He mentioned a few letters relating to some funds and some meetings and persons. He mentioned about one Mr. Abhay. Another *dada* writing to Stan *dada*...)

Stan: I do not know any *dada*. I do not use the language of *dada*. I do not know who Mr. Abhay is, who you say has written this letter. Moreover, if a letter does not contain the name of the 'sender' and name of the person 'to whom it is sent', then I think it is not worth considering. It must be discarded as junk. Therefore, it serves no purpose that you keep on producing these types of letters. I only know one Mr. Abhay Xaxa, a scholar from Jawaharlal Nehru University (JNU), hailing from Chhattisgarh, who was very much involved with

issues affecting the Adivasis. Very sadly, he died a pre-mature death a few months ago.

Int: Okay, since you are denying the authenticity of these letters and your lack of knowledge about these persons I have mentioned, please make a statement. And please note, I am only noting down the responses you give me to my queries. I will submit them to my superior officers who would make the conclusions about them.

Stan: That's fine. This is my statement, "*All my contacts with social activists has been within Jharkhand state, and the only occasion to contact people out of Jharkhand was in the context of setting up PPSC covering the 4 central states (Jharkhand, Odisha, West Bengal and Chhattishgarh) in view of coordinating efforts on behalf of under-trial prisoners in all these states with the possibility of going to the Supreme Court of India. Apart from that, I do not have any relation/contact with anyone. I have absolutely no relation or contact with any ultra-forces/persons*".

(Then, almost at the point of getting up to leave, he looked at a stone-slab (*Pathalgadi*) at the courtyard of Bagaicha²⁸, wherein the martyrs of Jharkhand who laid down their lives for protecting their land water and forest have been written to commemorate them and their contribution to the society). The Interrogator then made a comment: "You have mentioned the names of people who died by police firing, but why you have not mentioned people's names who were killed by Maoists?"

Stan: It is possible that some Maoists could have been involved in some of these incidents, but their identities have not officially been established and our efforts are to give voice to the voiceless.

6 August 2020 (one and a half hour) - he arrived at 11.15 a.m.

Int: I have come to inquire about one case and will go back.

Stan: Please go ahead.

Int: In your computer, a folder titled “Earth Summit” containing a file describes a communication between two Lok-Manch workers. There are two points on which I want some clarification from you: (1) The letter says, “Since the Indian state is becoming more and more fascist, we need to join forces with banned groups to counter the state fascism; (2) in order to do this we will need funds, at least some \$ 6-10 million; and (3) all these works would be done out under the direction of father Stan”.

Stan: It is rubbish. I disown this letter and communication. It is a fabrication, stealthily inserted into my computer. We are a religious body. You have seen this place, our set up and how we live. Do you need more explanation?

(The interrogator began explaining elaborately the ways of cloning of documents is done. He asked his assistant holding a camera to explain the process they go through in cloning. The person did explain. I listened to the whole thing and finally reminded again what I had already said once before as they vouched the integrity of what the NIA does.)

Int: I have been asked to find if the fund that comes for Lok-Manch project activities has been going to the ultra-left activists. What do you have to say about it?

Stan: Neither I nor Bagaicha has anything to do with ultra-left activist. Bagaicha is a place for poor adivasis and Dalits and not for anyone whom you term as ‘ultra-left’. About LM, I only know some of the activities they undertake. I am not associated with LM project. It is a centrally coordinated project. There is a staff member who will be able to give you some details about LM activities.

Int: Who is that person?

Stan: He is Solomon. He is not here now. He has gone to Hazaribagh (a place about 100 kilometres away from Ranchi). He said he is on the way back. You may talk to him when he comes back.

Int: Can I see your passport?

(Stan gave him his passport. The interrogator glanced through it. He made his assistant to take a photo of the passport. Having seen the passport, I was asked why I had not told him earlier about my visit to China.

Stan: I replied, “I have mentioned to you about the countries I visited and have spent some time on specific works and not those through which I have just passed. My visit to China was just like a tourist’s visit. Hence, I did not mention it to you.”

The investigator insisted to keep the Interrogation process secret. The officer was too sensitive about strangers coming in. He began asking who they were whenever someone passed by. For example, he asked, “Who was she?” pointing to students walking to the study room. The officer was vehemently insisting to keep the entire process of interrogation confidential. Stan responded saying that this is a public act and should come into notice of the public just as it has taken place with the two other persons who have been interrogated by the NIA recently. However, the investigator said, “I don’t know what has happened elsewhere, but here I do not want this matter to go out”.

The NIA interrogator told me that he would make a report of the interrogation, but some superior officer would draw the final conclusion. What that conclusion will be and what action will ensue are all very nebulous.

Stan Swamy SJ

13

To be released if and when I'm arrested

FROM trying to free innocent Under-Trial Prisoners TO myself being made an Under-Trial Prisoner

[a protest & a resolve]

This is to inform one and all that from the moment I am arrested, I will stop eating and drinking (including water). That will bring a speedy end to my bodily life. I humbly request that my dead body be handed over to the nearest medical college/hospital for medical research and scientific study.

And I desire that this action of mine be an expression of my dissent to and protest against

- i. the increasing autocratic governance in our country diluting the Indian Constitution of its democratic, secular, socialist character;

- ii. the wanton selling of country's natural resources to preferred corporate houses leaving the masses sink in ever deepening poverty;
- iii. the assault on free speech and expression leading to premeditated arrests of authors, poets, lawyers, human rights defenders, student leaders who are made to languish in jails accused under draconian laws denying them even bail;
- iv. the indiscriminate arrests of thousands of young Adivasi/ Moolvasi youth for asserting their constitutional, legal, judicial rights and are made to rot in overcrowded jails awaiting trial;
- v. the irrational, heartless, sudden imposition of 'lockdown', declared without any planning, preparation causing indescribable suffering to millions of migrant workers all in the name of containing the deadly virus.

Now, what is the 'crime' I'm supposed to have committed to warrant arrest?

During the past three decades, I have tried to identify myself with the Adivasi People and their struggle for a life of dignity and self-respect. As a writer, I have tried to analyze the different issues they are faced with. In this process, I have clearly expressed dissent with several policies, laws enacted by the government in the light of the Indian Constitution. I have questioned the validity, legality, justness of several steps taken by the government and the ruling class.

1. **I have questioned the non-implementation of the 5th Schedule of the Constitution** [Indian Constitution, Article 244(1)] which clearly stipulates that a '*Tribes Advisory Council*' (TAC) composed solely of members from the Adivasi community who will advise the Governor of the State about

any and everything concerning the protection, well-being and development of the Adivasi people in the State.

2. **I have asked why the Panchayats (Extension to Scheduled Areas) Act [PESA],1996 [No:40 of 1996]** has been neatly ignored which for the first time recognized the fact the Adivasi communities in India have had a rich social and cultural tradition of self-governance through the *Gram Sabha*.
3. **I have expressed disappointment at the silence of the government on Samatha Judgment, 1997 of the Supreme Court** [Civil Appeal Nos:4601-2 of 1997]. The judgment was meant to provide some significant safeguards for the Adivasis to control the excavation of minerals in their lands and to help develop themselves economically.
4. **I have cried aloud at the half-hearted action of government on Forest Rights Act, 2006:** [Act of Parliament No:2 of 2007] meant to correct the historic injustice done to the Adivasi and other traditional forest-dwellers.
5. **I have queried why the government is unwilling to carry out the SC order ‘Owner of the land is also the owner of sub-soil minerals.’** [SC: Civil Appeal No 4549 of 2000] and continues auctioning coal-blocks to industrialists without a due share to owners of the land.
6. **I have expressed my apprehension at the recently enacted Amendment to ‘Land Acquisition Act 2013’ by Jharkhand government which sounds a death-knell for Adivasi Community.** This does away with the requirement for ‘Social Impact Assessment’ and allows the government to give away even agricultural and multi-crop land for non-agricultural purposes.

7. **I have strongly disagreed with the setting up of 'Land Bank' which I see as the most recent plot to annihilate the Adivasi people because it claims that all 'gair-majurwa' land ('Commons') belong to the government and it is free to allot it to anybody (read industrial houses) to set up their small and big industries.**

8. **I have challenged the indiscriminate arrest of thousands of young Adivasis and Moolvasis under the label of 'naxals' just because they question and resist unjust land-alienation and displacement.** I've taken legal action against the Jharkhand State by filing a PIL in the HC praying that: (i) all Under-Trial Prisoners (UTP) be released on bail on personal bond, (ii) speed up the trial process which surely will acquit most of them, (iii) appoint a judicial commission to probe the reasons why the trial process is indefinitely being delayed, (iv) the police submit all needed information about all UTPs to the petitioner. It is now more than two years since the case was admitted but the police are yet to provide all needed information about all UTPs. This, I believe, is the main reason why the State is keen to put me out of the way. The most feasible way is to implicate me in serious cases and stall the judicial process to give justice to the poor innocent Adivasis.

Above are questions I have consistently raised.

If this makes me a '*desb droh?*' deserving of life-sentence, then so be it!

s/d

Stan Swamy

(Note: Later, in consultation with his Jesuit companions and Adivasi friends, Stan decided to become a prisoner of conscience)

14

Prison Diary and Poems

Dear Joe and Solo,

I hope you are all keeping fine.

I want to share with you that I am keeping good health, despite some ailments. A few fellow prisoners are very helpful to me. Considering my age and inability to adopt to prison conditions, I am given an assistant to help me to move around. I have been given a private cell with commode facility and simple special diet. I have access to some journals and magazines. I spend my time in reading, praying and interacting with fellow prisoners. I have asked for some warm clothes as it is cold here. I hope the prison authorities will permit me to have them to protect me.

I am languishing in prison for some alleged offences, which I have not committed. If this is God's will, so be it. I hope truth will win and I will be released soon on bail. I received your greetings and prayers

through one of my Jesuit colleagues, whom I called over phone on 25 October, Sunday morning. I am allowed to make phone call once in 15 days. Continue to remember me and all my friends here in the prison.

As for my family members and other kith & kin, the one person who I could suggest is my nephew Kumar Alex in Chennai who could be communicated regarding whatever happens to me. He will forward, what needs to be informed to my other kith & kin, using his own discretion. The way of the cross is long, and we have to walk it till the end with the mutual concern & solidarity we share together.

Stan Swamy

Dear friends,

Peace! Though I do not have many details, from what I have heard, I am grateful to all of you for expressing your solidarity support. I am in a cell approximately 13 feet x 8 feet, along with two more inmates. It has a small bathroom and a toilet with Indian commode. Fortunately, I am given a western commode chair. Varavara Rao, Vernon Gonsalves and Arun Ferreira are in another cell. During the day, when cells and barracks are opened, we meet with each other. From 5.30 pm to 06.00 am and 12 noon to 03.00 pm, I am locked up in my cell, with two inmates. Arun assists me to have my breakfast and lunch. Vernon helps me with bath. My two inmates help out during supper, in washing my clothes and give massage to my knee joints. They are from very poor families. Please remember my inmates and my colleagues in your prayers. Despite all odds, *humanity is bubbling in Talaja prison.*

In solidarity, Stan

Lie upon lie

30 Sept 2020: Colleague Solo gets a phone call from SP-NIA-Mumbai asking him to bring Stan to Mumbai on Monday for further interrogation. Solo tells him it will not be possible given my age, health conditions. SP asks Solo to hand over my medical papers to NIA man in Ranchi.

6-8 Oct: We prepare my medical papers and try to contact NIA man who never came (*Lie no. 1*)

8 Oct 8 pm: NIA team cum police landed up at Bagaicha and ask me to go with them to their office to meet their officer just to clarify 4 to 5 points (*Lie no.2*)... they forcibly take me and on reaching their office they tell me I'm arrested!... Some forms were filled up and my lawyer signs it... I ask for their officer who was supposed to question me... they tell me he would come the following day at 11 am (*Lie no. 3*)... I refuse to eat and lay down on a mat and try to sleep.

9 Oct: They all had *nasta* but I refused to eat... around 7 am they tell me 'let us go'.. I ask 'where'... 'to Mumbai'... In the meantime, two of my Jesuit colleagues bring a handbag with some clothes... I ask NIA men 'where is the officer who was supposed to question me' (*Lie no. 4*)... they tell me it will be in Mumbai.. they forcibly brought me to Mumbai by flight. On the way from airport, I tell the NIA men that I want to meet the SP... they tell me I can meet him at the court... On arrival they pointed out the SP and I quietly went up to meet him and he tells me the magistrate will hear me! (*Lie no. 5*)

Dear friends,

Thank you so much for the solidarity support by so many, for me and my co-accused. I am really grateful.

The Prison administration provides breakfast, tea, milk, lunch and dinner. Any additional edibles are to be purchased from the prison

canteen, twice a month. Also, newspapers, toiletries, stationary and other essentials can be purchased through the prison canteen. My needs are limited. The Adivasis and the Society of Jesus have taught me to lead a simple life.

I had brought with me a “sipper-tumbler”, to drink tea and water. However, the same was disallowed at the prison gate, on entry on 9 October. Now, I am using a baby-sipper mug, which I purchased through the prison hospital. I have communicated this need to our lawyers. I am still waiting to receive the sipper-tumbler.

Varavara Rao is very sick. Kindly, pray for him. Listening to the life-narratives of the poor prisoners is my joy in Taloja. I see God in their pains and smiles.

Regards, Stan

Dear Joe,

I have received couple of letters from you. Thank you for your expressions of solidarity. As you are aware, cold climate is affecting me. I had asked for full sleeve sweater, thin blanket and two pair of socks. I am sorry to hear that these materials were not accepted at the prison gate, and the one who brought them had to take them back, not once but three times. I am sorry for causing this trouble. I have personally spoken to the prison and hospital authorities and they have permitted me to receive them. Next time, when someone reaches these materials, I pray the guards will receive them and give me.

I have not met Arun Ferreira and Vernon Gonsalves before. I only read their names in the papers, when they were arrested. They are my new companions in my quest for justice for the poor. I request you

to pray for them and their families. I consider imprisonment as an opportunity to share fag end of my life with many innocent prisoners. Let 'Faith that does Justice' become a reality in Jesuit way of life.

Regards, Stan

Dear Joe and Mihir,

I have gone through the reply filed by the NIA. There are some paragraphs that I could not understand as I do not have a copy of the Bail Application filed by my lawyers. Nor do I have a copy of the Rejoinder that has been filed thereafter. So, I am just going by the points raised in the reply of the NIA.

There are two organizations viz. VVJA and PPSC that I have been associated with for which the State is posting false allegations.

At para no. 24 of the NIA reply, there is a mention of VVJA being a frontal organization. VVJA is an open-ended organization comprising of Adivasi and Dalit farmers who have either lost their land and therefore been displaced or have been served notice about their land being acquired and therefore are potentially displaced. When any such case is brought before the VVJA, its members gather and collect all the facts related to the case particularly with regard to specific laws and constitutional provisions to protect the rights of Adivasis. It mainly focusses on whether the 5th Schedule of constitution and Legal provisions of PESA Act, 1996 and FRA Act, 2006 have been followed in the process of land acquisitions. By and large, these provisions are not abided by the land acquiring authority. It is then, that VVJA takes up this matter and exposes the failures of implementation before the government officials. The VVJA gives great importance to whether the respective Gram Sabhas had given their consent or no. In some cases,

the Government officials have attended to the points raised and in other cases they have been ignored. VVJA also brings such instances to the attention of the general public through the media, with hope that this will help pressurize the administration to act.

In the same para no. 24, it is alleged that I attended a meeting of VVJA in Kolkata. It is not true. I had gone to Kolkata to attend a meeting organized by a Co-ordination Committee of Human Rights Organizations.

In the same para no. 24, reference is made to PUCL also being a frontal organization of CPI (Maoist). This was never mentioned anywhere in the Charge sheet.

At the para no. 26, there is an allegation that PPSC is also a frontal organization of CPI (Maoist). During 2014-15, there was an indiscriminate arrest of young men and women whoever resisted displacement and were imprisoned under the charge of being Maoist. This was true not only in Jharkhand but also in States having a significant tribal population such as MP, Chhattisgarh, Jharkhand, Odisha and West Bengal. Towards the end of 2015, about 70 lawyers and activists from all these states got together at Ranchi to decide how to intervene legally into such a situation. They called this collective PPSC. The very first task that they decided to undertake was a study of such undertrials in the above-mentioned States. One such study had already been conducted by 'BAGAICHA'. Thereafter, legal action would be initiated based on these studies. As such, PPSC is a spontaneous endeavor by concerned citizens and not initiated by CPI (Maoist).

At para no. 30, there is a mention that a case has been filed against me. This is a case registered during the *Pathalgadi* movement. The present JMM-Congress State Government of Jharkhand, on assuming office decided during a cabinet meeting to withdraw all *Pathalgadi* cases.

Although the decision has been taken by the government, its actual implementation is in process. Please find out the latest news regarding this and inform the Mumbai lawyers.

At para no. 32, there is mention of an accusation against me to have led a protest opposing Operation Green hunt. It is true that such a protest was held and the same was conducted with the permission of the Police. Hence it was not illegal.

At para no. 34, there is a mention of BAGAICHA. I would like to reiterate that Bagaicha is an organization founded by the Catholic Church as part of its goals and objectives.

In conclusion, there are some points mentioned in the Reply that I strongly refute & deny, such as

- * That VVJA and PPSC are frontal organizations of CPI (Maoist)
- * That the letters and documents found in my computer were placed there by me or seen by me. In fact, they have been planted in my computer
- * That I received Rs. 8 lakhs from some Comrade Mohan of the CPI (Maoist)

Hope these above clarifications by me are of help.

Dear friends,

Thank you for your deep concern for my wellbeing. The Jail authorities have been very considerate. Recently, I was given a sipper, which I am using for drinking water and tea.

When I was taken by NIA on 8 October, I was told that I had to meet with an officer in NIA camp office in Ranchi, to answer 5 or 6 questions. Believing the words of the officers, without taking anything with me, I went with them. After reaching the NIA camp office, I was told that I am arrested. I was not surprised. The officers did their duty

as they were told to do. Later around 11 pm, at the instructions of the NIA officers, my Jesuit companions brought a bag and handed over to me. This bag contained clothes, ever-silver sipper, medicines and my wallet with some cash and my original voter ID Card. I carried this bag with me to Mumbai. When I was taken to the Taloja prison, the bag was not given to me. The bag may be either with NIA or the Jail authorities, safe.

Friends, we are in the season of Advent. As we approach Christmas, let us pray that Jesus may be born in Taloja prison, this year.

Regards, Stan

MY REFELCTION

First of all, I deeply appreciate the overwhelming solidarity expressed by many during these past 100 days behind the bars. At times, news of such solidarity has given me immense strength and courage especially when the only thing certain in prison is uncertainty. Life here is on a day-to-day basis. Another strength during these past hundred days, has been in observing the plight of the undertrials. A majority of them come from economically & socially weaker communities. Many of such poor undertrials don't know what charges have been put on them, have not seen their charge sheet and just remain in prison for years without any legal or other assistance. Overall, almost all undertrials are compelled to live to a bare minimum, whether rich or poor. This brings in a sense of brotherhood & communitarianism where reaching out to each other is possible even in this adversity. On the other hand, we sixteen co-accused have not been able to meet each other, as we are lodged in different jails or different 'circles' within the same jail. But we will still sing in chorus. *A caged bird can still sing.*

In solidarity, Stan

Dear one and all,

All of you have expressed hope that I will be released soon. Much as it may be desirable in itself, I'm beginning to question if it is proper. I've met all my co-accused lodged in this prison. They are all such precious human beings who have given the most and best of themselves for the cause of the deprived. They have been in jail for more than two years but have not been able to get bail. I'm the last (16th) to be arrested in the same case. I think that my release in the near future will be justifiable only if it somehow provides an opening for others to get bail.

In solidarity, Stan

'They also serve who only stand and wait' – Poet John Milton

Stan's bail plea yet again differed to March 11

Dear one and all,

Pardon me for clubbing all of you together as I have one and the same message to give to you all. Practically everyone writing to me express the wish that I be released from prison 'at the earliest/immediately/without any further delay' or any such wish.

Apart from the fact the wheels of justice turn very slow, all 16 of us implicated in the serious cases such as sedition and UAPA where it is very difficult to get bail. Still our lawyers are trying their very best. So, we await 'the ides of March' on the 11th of March.

Whereas arrests under sedition are increasing conviction is just 3 per cent. As for UAPA, 5922 arrests were made during 2016 – 2019, only 132 were convicted. (Source: Times of India 17-02-2021). Our prisons are bursting at the seams. Consequently, we have a scenario of deprivation of even the basic amenities to prisoners.

So much for now

Ever in solidarity, Stan

Dear Joe, Solo,

Thank you so much for your very reassuring letters.

Joe, I'm in receipt of the money, medicines, book. Thank you. Many are keen to read the book.

Solo, I'm awaiting to hear about our proposal of sponsoring some Adivasi school-going children with the award money. Sorry I made this suggestion during the time you were harassed so much by NIA. Very much hope that trying period is over. And thanks for rising up to the occasion

Thanking Fr. Stany, POSA for his thoughtful Press Release appreciating the role of our very committed lawyers. We did not succeed this time at the lower court but very hopeful of doing so in the high court.

Gently reminding Joe about the charge sheet of our helper Mohd Shabir. Poor man has been in jail for over five years without knowing why he is in jail.

Kindly convey my love and greetings to all our Jesuit bretheren, staff members, co-workers, friends at Bagaicha and ISI-Bangalore.

Ever in solidarity, Stan

Dear Joe, Solo,

Now that you have left it to me about what to do with the Award money (Mukundan C Menon Human Rights Award was conferred on Stan, containing a citation and Rs. 25,000), please find a few children whose fathers are in jail because they stood up for Adivasi rights. Organize a simple function and give it to them. Hope it will be possible.

Ever in solidarity, Stan

POEMS

On New Year

May the New Year

Bring a New Awakening

To all of us

 May the new awakening

 Light a New Flame

 In our hearts

May the new flame

Help us discern Truth from untruth

And hold fast to truth

 May Truth embolden us

 To speak truth to power

 And be ready to pay the price

Stan Swamy

(On completion of 6 months of incarceration)

Light, Hope, Love – The New Order

Light overpowering darkness

Hope replacing despair

Love winning over hate

Is the message of Jesus risen

Darkness, despair descended on me

At lower court declaring me complicit

Of waging war against the State

As such not deserving bail

And what was the evidence?

Some documents planted in my computer

Which were supposedly addressed to me

Something I myself was not in the know

My co-accused colleagues

Assured me this accusation is nothing new

They too have been accused similarly

I was thus consoled to be in their good company

But fight we will till the end

Not so much just to save our skin

But to speak truth to power

Counting all the while you all are with us in mind and heart.

Stan Swamy

(This poem was posted by Fr. Stan on 7 April to Fr. Joseph Xavier SJ and received on 27 May, just the day before he was permitted by the court to be admitted in Holy Family hospital, Bandra)

Prison life, a great leveller

Inside the daunting prison gates

All belongings taken away

But for the bare essentials

 'You' comes first

 'I' comes after

 'We' is the air one breathes

Nothing is mine

Nothing is yours

Everything is ours

 No leftover food thrown away

 All shared with the birds of the air

 They fly in, have their fill and happily fly out

Sorry to see so many young faces

Asked them: "Why are you here"?

They told it all, not mincing words

 From each as per capacity

 To each as per need

 Is what socialism all about

Lo, this commonality is wrought by compulsion

If only all humans would embrace it freely and willingly

All would truly become children of Mother Earth

Stan Swamy

(Note: The prison diary is prepared from Stan's letters and his telephonic conversations from Taloja prison with Fr. Joseph Xavier SJ)

EPILOGUE

Am I to say farewell?

“Life and death are one, even as the river and the sea are one”

– Kahlil Gibran.

There is a strong belief among the Indigenous Adivasi societies that when someone dies he/she comes back in spirit to the near and dear ones, to the persons he/she had shared life with, to the communities he/she had struggled with, in resisting injustice. To celebrate this ‘coming back’, a few days after the person’s demise, the entire village community gathers in front of his/her house and the village priest calls upon the departed spirit and invites him/her to come back and dwell in their houses, to be a witness to all that happens to the dear ones, and to guide and accompany them in their journey through life. Then, the priest announces in which form the spirit has come back to the house... it can be as a plant, a tree, or an animal with which he/she was close to or associated with during his/her life. The priest, then, leads the spirit to the *adig* (the place where food for the family is prepared). From then on, when the family members sit down to have their meal, the eldest male member of the family takes a few grains of food from his plate and places it outside his plate and prays the spirit to be with them as they nourish their bodies with food, so that they can live a healthy life and work for the good of the family and community.

This sentiment is echoed in other traditions as well. Martyrs are referred to as ‘*amar*’ (beyond death). Some religious texts interpret death as ‘life is changed, not ended’. The poet Kahlil Gibran’s saying “the river and the sea are one” means the fresh water of the river

when it flows into the sea becomes salty water, but *water remains water*. The form may change but the substance is the same.

I have been inspired by such thoughts and attitudes. I often think of those who have played a significant role in my life, whom mother earth has now taken into her bosom, as being close to me at every step, guiding, strengthening and standing by me in a never-fading solidarity.

This is the way I wish to be remembered by near and dear colleagues and comrades as well as those who I have tried my best to accompany in their struggle for truth, justice and humanity.

But life is still there to live. May we all live our lives to the fullest!

Stan Swamy SJ

End Notes

- 1 Excerpts taken from an interview with IDR, published on 12 September 2019.
- 2 I am a co-founder of this movement.
- 3 The Supreme Court, Criminal Appeal No. 11 of 2011.
- 4 Cf. Swamy, Stan, 'Flowers don't bloom in a Volcano': Story of the Adivasi societies of Jharkhand, *Sevartham*: 37 (2012), pp. 83-102.
- 5 Indian Constitution, Article 244 (1).
- 6 Act of Parliament, No. 33 of 1989.
- 7 The PESA Act 1996, No: 40 of 1996.
- 8 Civil Appeal Nos: 4601-2 of 1997.
- 9 Act of Parliament No: 2 of 2007.
- 10 Act of Parliament No: 30 of 2013.
- 11 Supreme Court: Civil Appeal No. 4549 of 2000.
- 12 Article 26 of the above-mentioned UN Charter.
- 13 PESA Act 4(d), emphasis added.
- 14 Supreme Court: Criminal Appeal No: 889 of 2007.
- 15 The numbers mentioned are based on rough estimates done by organisations and activists working with migrant workers in soothers states. It has been difficult to get the exact numbers due the floating nature of migrant workers as many of them come seasonally and keep moving from one location to another.
- 16 P.O. Martin & Smitha Philip, 'Adivasi youth migration from central and eastern states to south India: opportunities and

challenges' published in *Social Action*, vol.69, April-June 2019, New Delhi.

¹⁷ Bhima-Koregaon is a place in Maharashtra near Pune where the Dalits (former untouchables of India) gathered in big numbers on 1 January 2018 to celebrate the 200th anniversary of a battle in which Dalits fought against the rulers. During this celebration, sudden violence erupted. The instigation of this violence is attributed to the upper caste right-wing forces which wanted to scuttle the celebrations. The Dalits filed an FIR in the Pune Rural police, which had jurisdiction over Bhima-Koregaon; Another FIR was filed with the PUNE city Police which was taken cognizance immediately leading to the raids and arrests of Human right Defenders. (For more on the incident and the case please visit: <https://www.thequint.com/explainers/what-was-bhima-koregaon-battle-explainer>).

¹⁸ *Pathalgadi* is a traditional and ceremonial erecting of a stone-slab by the Mundari-speaking Adivasi/indigenous people in remembrance of their ancestors, who have lived their lives and died in commitment to their cultural values and ideology. In recent years, due to increasing displacement, deprivation and violation of indigenous peoples' constitutional rights, Adivasis/indigenous peoples have started using *Pathalgadi* to inscribe their constitutionally guaranteed rights on these stone slabs and erect them at the entrance of their village boundaries. The BJP-led government in Jharkhand has depicted this practice of the indigenous peoples or Adivasis as 'anti-national' and deployed para-military forces to violently suppress this movement in villages at Khunti district of Jharkhand. Several (20) activists who expressed their concern on the Facebook, over the state repression on indigenous people in relation to

Pathalgadi movement, have been implicated in a sedition case by the Jharkhand police. This is, in brief, the *Pathalgadi* case. (for more on *Pathalgadi* movement: <https://thewire.in/rights/pathalgadi-is-nothing-but-constitutional-messianism-so-why-is-the-bjp-afraid-of-it>).

¹⁹ During the interrogation, the interrogator will go out and make a phone call and then will continue. It was clear to me that he was briefing and getting instructions. This happened many a times during all days of interrogation.

²⁰ Naxalbari is the name of village in West Bengal State. The Santhal Adivasi (indigenous) people there were exploited and illegally dispossessed of their land by moneylenders and other exploitative forces. Countering these forces of exploitation, an armed insurgency emerged there in the 1960s. The insurgents later adopted the ideology of Maoism. Since its place of origin in India was Naxalbari, the movement took its name “Naxal” or “Naxalite movement” in India.

²¹ Operation Green hunt is the name given by media to the special operation against Naxalites in the central Indian states of Chattisgarh, Jharkhand, Odisha and Madhya Pradesh in 2009. About 1500 people have lost their lives; hundreds of youth have been arrested and Special Forces like COBRA, Grey Hounds, army, and other forces numbering 300,000 were involved with air force and attack helicopters to wipe out Naxalism. Adivasis and Adivasi villages have been the worst affected by this Operation. (https://en.wikipedia.org/wiki/Operation_Green_Hunt)

²² Sudha Bharadwaj is a committed human rights lawyer who worked for the rights of Dalit and Adivasi labourers in Chhattisgarh state. She has also been arrested in relation to Bhima-Koregaon riot case and she has been in jail for nearly a couple of years.

²³ Mr. Saibaba is a professor of English at Delhi University. He has been a 90% disabled person who moves around on a wheelchair. However, he was also arrested in relation to some sedition case and has been in jail for about three years.

²⁴ Salwajudum was a state-backed people's resistance movement in 2005 to counter the Maoist/Naxalite movement in predominantly Adivasi regions of Chhattisgarh state.

²⁵ Ref: Stan Swamy vs The State Of Jharkhand on 6 December, 2019. Paragraph 26. In view of what has been held above, the order dated 19.06.2019 passed by the Chief Judicial Magistrate, Khunti in Khunti Police Station Case No.124 of 2018 (G.R. No.287 of 2018) by which warrant of arrest has been issued and the order dated 22.07.2019 passed by the Chief Judicial Magistrate, Khunti in Khunti Police Station Case No.124 of 2018 (G.R. No.287 of 2018) by which process under Section 82 of the Code of Criminal Procedure has been issued, are hereby set aside and quashed. Since, these two orders are set aside, the order dated 24.09.2019 passed by the Chief Judicial Magistrate, Khunti in Khunti Police Station Case No.124 of 2018 (G.R. No.287 of 2018), by which the process under Section 83 of the Code of Criminal Procedure, which is a consequential order to the issuance of process under Section 82 of the Code of Criminal Procedure, is also hereby set aside, as because process under Section 83 of the Code of Criminal Procedure, on facts of this case, is not an independent provision and is dependent on the validity of the order, by which process under Section 82 of the Code of Criminal Procedure is issued.

Paragraph 27. In the light of the above, this criminal miscellaneous petition is allowed. The matter is remanded to the Court below

for proceeding in accordance with law afresh after complying with the provisions of the Code of Criminal Procedure.

²⁶ Earth Summit was a three-day event from 27-29 March 2015, organized by the Jesuits, in Kolkata on Global Climate Change and Water Disaster, in which about 50 Jesuits participated. The main speaker was Dr Rajendra Singh, the Waterman of India.

²⁷ Mahatma Gandhi Rural Employment Guarantee Act (MGNREGA) is an Act promulgated in 2005 by the central government which offers opportunities to unemployed people to work and earn for at least for 100 days a year.

²⁸ Bagaicha has a stone-slab erected in the middle of its courtyard. The names of the Adivasi freedom fighters, activists and others committed to Adivasi causes are written on it. These names are of people have laid down their lives standing up against injustice and exploitation and asserting their rights starting from 1770. This *Pathalgadi* with the names of martyrs enables us to commemorate their lives and contribution to Adivasi societies. Usually, many groups coming here, stand in front this particular stone-slab and pay their respects to these Jharkhandi martyrs.

QUOTABLE QUOTES OF STAN SWAMY

- * Why truth has become so bitter, dissent so intolerable, justice so out of reach.
- * Truth must be spoken, right to dissent must be upheld and justice must reach the doorsteps of the poor.
- * When each dissenter is put behind bars, a thorn each is removed from the flesh of the ruling class.
- * In the current system, justice is beyond the means of most of those who have been falsely accused.
- * When the youth stand up against the systemic wrong, they are putting themselves at a risk of being arrested and imprisonment for years without trial.
- * Compulsions from the corporate houses outweigh the government's obligations to the citizens of the country.
- * We live in a country where law and order agencies neither follow the provisions of the Constitution nor the judgements of the Supreme Court. PESA Act is only a tip of an iceberg.
- * How long will the Adivasis be victims of systemic oppression? Justice delayed is justice denied.
- * Every dissenter is a thorn in the flesh of the state. This is the role of the citizens, when inequality and exclusion of the poor is the order of the day.
- * Several hundreds of Adivasi and Dalit youth are languishing in the jails of Jharkhand as naxal-suspects. When the public gets used to this as a matter of daily occurrence and finds nothing amiss, it is a dangerous sign for a healthy democracy.
- * Human Rights defenders are repressed but not defeated. Freedom... a long road to go!
- * Every mine that is dug, not only destroys the green forests, fertile lands and water bodies but also often displaces entire village habitations.
- * The government calls me 'Deshdrohi' for defending the rights of the Adivasis. So be it.



Prison-life, a great Leveller

Inside formidable prison gate
All belongings taken away
but for a few essentials

'you' comes first
'I' comes after
'we' is the air one breathes

Nothing is mine
Nothing is yours
Everything is ours

No left-over food thrown away
All shared with birds of the air
They fly in, have their fill, happily
fly out

Waxed at so many young faces
asked them, 'why are you here?'
They told, it all, not mincing words

From each as per capacity
To each as per need
Is what Socialism is all about

So, this commonality is wrought by ^{prison}compulsion
If only all would do it freely and willingly
all humans will truly become children
of Mother Earth

Atam Awami

25 Nov 2025



- 1820- स्वतंत्रता की लड़ाई - लजपत राय (चंदौली, सोनी, गुमला, गुला कांड)
- 1964 कुर्गिया हत्याकांड - हेरमन एसकार्ट (सम्प्रदायिक तानाशाही द्वारा)
- 1994 सिम्लिया हत्याकांड - जेसूदास लुयान (मंगल चोपड़ा कांड)
- 1858 स्वतंत्रता की लड़ाई - शेरू भिखारी
- 1831-मान कोल विद्रोह - दिग्विजय खन विद्वारा
- 1859-स्वतंत्रता की लड़ाई - मित्तलार खन मित्तलार
- 2008-चरही नरेगा संघर्ष - जगदीश सोरेन
- 2008 कथोकुंड गोलीकांड - नसीराम दुडू खन साइमन मराठी
- 2011-अमरिका नरेगा संघर्ष - विद्यामन अंसारी
- 2011-सुडो प्रेस प्रत्याहार - हया होनरागा, मंगल होनहागा खन बोभा गुडिया
- 2011-पचवाड़ा हत्याकांड - चक्रवर्ती जैन
- 2012-नागाई आंदोलन - सुंदरी उरांव
- दशमी केलेहा, पोको निकी
- 2016-बंडका गैंग गोलीकांड - मोहेलख खन कुंदास, अमिंक-राम, राजेश सावर खन अन्य
- 2016-बुंदू पुलिस अत्याचार - रविश खन
- 2016-सुंटी गैलीकांड - अब्राहम मुजा
- 2011-गिरिडीह गोलीकांड - गोतीलाल वास्के
- 2018 घाघरा गोलीकांड - बिरसा मुंडा
- 2018 तोरपा हत्याकांड - जमिंत टोपनी
- 2019 डुमरी हत्याकांड - पंकारा लंकडा
- 2019 कोचंगा हत्याकांड - सुखराम मुंडा
- 2020 घाघरा हत्याकांड - रामजीन मुंडा
- 2021 संपादन हया - खन स्वामी