

## **Journalists in trouble when reporting on tribes**

### **Situation of freedom of expression in India's Tribal State of Chhattisgarh**

The low intensity insurgency, which has waged for over 30 years in India's once peaceful State Chhattisgarh, has increased in conflict and violence since 2005, threatening the democratic nature of this society. Illegal detention, forcible eviction, rape and murder of women, fake encounters and summary executions are intensifying and over 1000 tribal people have been killed. Over 45000 people are displaced and compelled to stay in state-run relief camps. FFDA's primary study found that another almost 60000 tribal people have been forced to move to the neighboring States of Orissa, Andhra Pradesh and Maharashtra. Police and security forces have raped over 200 tribal women in the area. As of 2nd of March 2007, 4048 young people have been recruited as Special Police Officers. FFDA identified 70% of them as under-aged/children. Nearly 250 school buildings have been demolished and security forces have captured another 150. Over 1000 innocent tribal villagers, including women have been falsely charged and imprisoned. The ongoing conflict is destroying the livelihood of innocent tribal people. The police and security forces steal their livestock (e.g. goats, chickens etc). Attempts by journalists to document these various violations and the lack of investigation into such matters have led to threats on their lives and subsequent media censorship.

When reporting on conflicts, journalists are in a precarious position between combatant parties. Only when they are allowed to report independently and without fear, can a genuine democracy be said to be in place, stated the IFJ president Christopher Warren.

Freedom of information and expression are some of the most fundamental human rights needed to build and sustain a successful and competent democracy. India ranked 105th in the World Press Freedom Index of 2006[1]. Most high-ranking countries are democratic, however; it is the presence conflict in democratic countries, such as India, that have a negative influence on their rank. In the state of Chhattisgarh, where insurgency has waged for over 30 years, the threat to press freedom is very real.

## **Conflict coverage by journalists: Curbs on the Press**

Attempts to silence journalists are intermittent throughout India and not confined to specific conflict zones. Journalists in the Naxal Conflict area in the state of Chhattisgarh can pay the ultimate price for telling the truth. They are prevented from reporting and investigating by corrupt politicians, police and Salwa Judum members, many receiving harassment, intimidation and beating. Reporting on the Maoist conflict in this area is restricted to press releases by government officials and on occasion statements issued by the Maoists. There are heavy restrictions on the freedom of movement and expression causing many victims not to speak out. Underneath the one-sided government press releases and gagged journalists; the war rages on.

### Issues of Chhattisgarh; case studies

I. On the 15th of November 2006, Afzal Khan a journalist for the publication Hindisatt in Bhopalpatnam, Chhattisgarh, was attacked by members of the Salwa Judum movement. At a public meeting in Bhopalpatnam leaders of the Salwa Judum movement called all journalists to the stage, accusing them of providing logistic support to the Maoists, and threatening them. Later that day Khan was summoned to meet with the leaders of Salwa Judum and Special Police offices, who beat him. Khan survived with head injuries and a fractured hand. Through fear for their lives, Khan and his family were forced to leave the village after continuous death threats from Salwa Judum.

II. On the 8th September 2006, Kamlesh Paikra also a Bijapur correspondent for Hindsatt wrote a story raising suspicions of Salwa Judum members burning down villages in Dantewara. The article explained that Salwa Judum members burnt 50 houses in the village of Mankeli and how the movement had caused displacement on a large scale. The article generated wide concern and the Communist Party of India visited the village. Kamlesh Paikra was pressured to claim that the story was false, which he refused to do. Due to the article, Paikra was made to suffer. The permit for his 'fair price' shop was cancelled causing financial hardship to his family. The harassment became more serious when Salwa Judum members prevented him from traveling out of Bijapur. He was unable to visit the villages and camps of the displaced tribals and therefore was prevented from reporting objectively on the conflict. A fake report led to the administration lodging a false case against Paikra's brother Tarkeshwar Singh who was arrested on the 1st of December 2006 because the report alleged he possessed Naxalite literature and uniforms. Although Singh was released after two weeks, the case is still pending. After receiving

information that the police were planning to murder him in a 'fake encounter', Kamlesh Paikra moved to Dantewara with his family, paying a high price for telling the truth and his life still at risk.

III. Mr Sanjay Reddy, Mr Anwar Khan and Mr Liladhar, are all journalists who have been threatened by Salwa Judum activists during 2005–2006, none have received justice and they continue to work in fear.

IV. The previous Superintendent of Police in Dantewara, Mr Das, threatened journalist, N.R.K. Pille, the President of Dantewara Journalist Association in 2005.

V. On the 31st of August 2004, Senior Correspondent Ruchir Garg and cameraman Vishwanath Sahu and their driver Maqbool were threatened and beaten by the Thana in charge of Tilda and other police officers. The journalists were held at gunpoint, verbally and physically abused until they managed to flee the scene. All three journalists suffered mental trauma from the incident and Ruchir Garg's health was seriously affected by the stress. "Journalists working in zones where the Maoists are active come under huge pressure from the security forces." [2] Garg said.

On 29th July 2005, the Chhattisgarh State Human Rights Commission hearing the case of Garg directed the general of police to take department action against the police officers involved in the attack and to direct all police officers not to participate in any violation in future. He also directed that the media personnel should have their rights implemented and protected. Unfortunately the police authorities still have not conducted any action against the perpetrators found guilty by the State Human Rights Commission. While talking to FFDA the joint secretary of the State Human Rights Commission, Mr. D. K. Bhatt claimed that the Commission is concerned about violations of the freedom of expression, and that they have received many complaints on the subject and have issued notice for a government response to the matter.

VI. FFDA has evidence of violations of the Freedom of Movement in the Naxal Conflict area in Chhattisgarh, where journalists and their support staff need to have written permission from the District Collector to enter the villages affected by the conflict. This is a blatant violation of human rights, in particular the freedom of movement. There is also evidence of journalists and human rights activists being prevented from entering public areas by security forces and SPOs, which is illegal. Salwa Judum activists and police officers censor the

release of information and journalists are threatened and are therefore not coming forward with their stories or seeking justice. Many journalists wanting to remain anonymous for their safety have contacted FFDA with evidence that police authorities are suppressing incidents of human rights abuses by the police, security forces and Salwa Judum.

Currently journalists report from press releases produced by the government or risk their life and career by reporting objectively both sides of the struggle. "This blatant attempt to silence journalists through humiliation, intimidation and direct attack is a clear indication of deep lack of respect for press freedom in India, particularly in Chhattisgarh," said the IFJ President Christopher Warren[3]

### **Official Secrets against the Right to Information**

The Official Secrets Act of 1923 was developed from a colonial British law. According to published reports, journalists who are reporting or investigating alleged corruption or questioning authorities can be frequently beaten or arrested on charges that they are endangering national security. Government officials have used the Official Secrets Act to both restrict publication of sensitive stories and suppress criticism of government policies.

India's National Constitution has many provisions that claim to protect Press Freedom and Freedom of expression, but there are also some Indian laws, which contradict and impede these rights.

The Right to Information Act 2005 gives the civil right of Indians to access Government records. Information can be attained from any public authority and such government bodies are required to computerize and publish their records.

The enactment of the Contempt of Courts Bill in 2006 is a positive step for democracy and freedom of the press. It introduces truth as a justification for contempt of court, thus allowing journalists a legal defence for their investigative articles. However, ongoing evidence of gagged journalists and censorship of the media proves much more is needed to combat these human rights violations.

### **The Gagging Law**

"You can't fight an armed rebellion by stopping journalists from talking about it," says Worldwide press freedom organisation[4]. India's world index press freedom score by no means reflect the severe censorship

and oppression of the media in the Naxal conflict state of Chhattisgarh. The state of Chhattisgarh passed a law banning the Maoist Communist Party of India (CPI–Maoist) making the job of local journalists to report extremely difficult and dangerous. The Special Public Security Act was adopted in September 2006, which prohibits the media from reporting any activities that can be seen as ‘unlawful activities’[5], the effect of which bars the media from reporting on the banned Maoist party. Journalists can be jailed for up to three years for covering the Maoist rebellion and media outlets can get their property confiscated for supporting the rebels.[6] The state claims that the law was passed to protect lives and to try and sustain peace, however in truth it is a violation of International Standards and the National Constitution, violating the rights of journalists and civilians throughout the state.

### **States obligation to international human rights standards**

Article 19 of the Universal Declaration of Human Rights that India is in concurrence with, states that: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” All citizens have this right and it is the Indian Government’s responsibility to protect the rights of its citizens. The restriction of journalist’s movements is a violation of Article 13 of the Universal Declaration of Human Rights, which states, “Everyone has the right to freedom of movement and residence within the borders of each state.”[7]

India is a state party to International Covenant on Civil and Political Rights. Article 19 of ICCPR, which protects the freedom of expression, states:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (order public), or of public health or morals.

## **Domestic guarantees**

Freedom of Expression is also guaranteed under article 19 as one of its fundamental rights in the constitution of India, which states:

(1) All citizens shall have the right–

(a) to freedom of speech and expression

(2) Nothing in sub–clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub–clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

While passing an order in the year 1982, the Supreme Court of India stated, “The concept of an open Government is the direct emanation from the right to know which seems implicit in the right of free speech and expression guaranteed under Article 19(1)(a). Therefore, disclosures of information in regard to the functioning of Government must be the rule, and secrecy an exception justified only where the strictest requirement of public interest so demands. The approach of the Court must be to attenuate the area of secrecy as much as possible consistently with the requirement of public interest, bearing in mind all the time that disclosure also serves an important aspect of public interest.

The fundamental rights cannot be taken away by any legislation; a legislation can only impose reasonable restrictions on the exercise of the right. Out of the several rights enumerated in clause (1) of Article 19, the right at sub–clause (a) is not merely a right of speech and expression but a right to freedom of speech and expression. The enumeration of other rights is not by reference to freedom. In the words of the then Chief Justice of the Supreme Court of India Patanjali Sastri (in *State of West Bengal v. Subodh Gopal Bose and Ors.*, 1954 SCR 587), these rights are great and basic rights which are recognized and guaranteed as the natural rights, inherent in the status of a citizen of a free country.

## **Recommendations**

India is juxtaposed by its secrecy legislation preventing the free flow of information alongside modern and progressive attempts to stabilize a

democracy and promote freedom of expression and information throughout the country. The Indian media is active and protective of its freedoms and plays a crucial role in the country's democratic system. However, in states unsettled by Naxal insurgency, journalists are caught in the crossfire both on the battlefield and in the office.

The Indian Government needs to revoke or re-clarify the Official Secrets Act and its effect on the Right to Information Act and to educate and inform the public of their right to information and freedom of expression.

The State Government of Chhattisgarh needs to revoke the Special Public Security Act to ensure full, independent and objective coverage by the media and total press freedom. The state and national government need to be accountable for the non-violent and violent threats made by officials and seek justice and provide compensation for the victims.

The State of Chhattisgarh needs to prosecute those who are attacking journalists and violating their right to freedom of expression.

The Forum for Fact-finding Documentation and Advocacy urges authorities to respect journalists' rights and the rule of law.

[1] Reporters sans Frontières: Annual Worldwide Press Freedom Index 2006 – [www.rsf.org](http://www.rsf.org)

[2] Reporters sans frontières (RSF), Paris 2005 <http://www.rsf.org>

[3] <http://www.newswatch.in/?p=6501>

[4] Reporters sans Frontières: [www.rsf.org](http://www.rsf.org)

[5] RSF report; [www.rsf.org](http://www.rsf.org)

[6]  
[http://www.freemedia.at/cms/ipi/freedom\\_detail.html?country=/KW0001/KW0005/KW0116/](http://www.freemedia.at/cms/ipi/freedom_detail.html?country=/KW0001/KW0005/KW0116/)

[7] International Declaration of Human Rights:  
<http://www.un.org/Overview/rights.html>