

PRELIMINARY REPORT

## **Just a little Collateral Damage.....?**

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

10<sup>th</sup> December 2010,  
Human Rights Day

## **CONTENTS**

- ❖ Overall Situation in Chhattisgarh.....
- ❖ Report regarding incident of 9<sup>th</sup> October 2010  
In Village Ledgidipa, district Mahasamund.....
- ❖ Report regarding incident of 9<sup>th</sup> October 2010  
In Village Kade, district Rajnandgaon.....
- ❖ Report regarding incident of 8<sup>th</sup> October 2010  
In Village Sawargaon, district Gadchiroli.....
- ❖ Report regarding incident of 15<sup>th</sup> October 2010  
In Jamul, district Durg.....
- ❖ Recommendations. ....

## **APPENDICES**

- ❖ Schematic Map of the site of the Ledgidipa encounter.....
- ❖ Schematic Map of the kitchen of the Patel household.....
- ❖ Photograph of the Patel's kitchen.....
- ❖ Schematic Map of the sites of the Kade  
and Sawargaon incidents .....
- ❖ Photos of Jayanti Ekka and Manorama Kujur.....
- ❖ Photos of the Sawargaon Ashram School and site.....
- ❖ Photos of the site of the Jamul encounter.....
- ❖ Letter submitted by the team to the Collector,  
Rajnandgaon. ....
- ❖ Letter sent by the TI Sankra to the PUCL.....
- ❖ Letter sent by TI Jamul to the PUCL.....

## **The Overall Situation in Chhattisgarh**

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

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being killed, of ordinary villagers being picked up and jailed as Naxalites, of ration shops and anganwadis being withdrawn from the cordoned-off so-called Naxal strongholds, and of critical lack of access to medical help resulting in cholera and malaria epidemics.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

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

On the other hand, social activists who have roots in Bastar dating back several decades, like Himanshu Kumar of the Vanvasi Chetana Ashram have been hounded out for expressing dissent. Himanshuji’s Ashram was demolished and two VCA activists – Koparam Kunjam and Suknath Oyami, active in rehabilitating the adivasis of 10-15 villages who had fled to Andhra Pradesh in the early days of the Salwa Judum, have been arrested under the draconian Chhattisgarh Special Public Safety Act (henceforth CSPSA). There has been a systematic attack on the activists of the CPI (Communist Party of India) which has a significant presence in Bastar, and several of them including elected representatives of the Janpad Panchayat - one of them disabled, and post bearers of the Adivasi Mahasabha have also been arrested under the CSPSA on wild allegations of

supporting Naxals. The most shocking of the arrests has been the recent one of Kartam Joga, leader of the Adivasi Mahasabha, who had petitioned the Supreme Court against severe and widespread human rights violations in the Konta block during the Salwa Judum campaign, and whose petition is still pending. Prakash Korram of the Ekta Parishad - a Gandhian NGO established in Kanker since several decades, had also been arrested under the CSPA and was released on bail failing filing of the chargesheet. This targeting of social and political activists in the Bastar division has been strongly protested by mass demonstrations of the Adivasi Mahasabha in Jagdalpur and Dantewada in November 2010 demanding the removal of IG (Naxal Operations) Mr. Kalluri.

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

Surprisingly, despite the ongoing anti-Naxal operations, the Chhattisgarh Government claims that Naxalite activities, rather than declining, are further spreading to the districts of Dhamtari and Mahasamund in the East, to Rajnandgaon towards the West, and Jashpur in the North of the State, and indeed there have been media reports to this effect.

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

Thus an All India Fact Finding Team consisting of 11 persons belonging to the Chhattisgarh PUCL; Campaign for Justice and Peace, Chennai; PUCL Karnataka (Bangalore Chapter); Peoples Union for Democratic Rights, Delhi; and Human Rights Law Network was constituted. The Team, working in two groups, carried out its investigation between 10<sup>th</sup> and 13<sup>th</sup> November 2010, and what follows is its Preliminary Report.

**Report of the Incident of 9-10-2010 in Village Ledgidipa, district Mahasamund**

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

On 9<sup>th</sup> October, 2010, Saturday, various evening newspapers carried reports of a fierce encounter that happened on the same day, between the Naxals and the state police force at Padakipali, near the Orissa border, in which it was claimed that 8 Naxals were killed and 2 police injured. Later, it was admitted that 2 of the persons killed were actually villagers of Ledgidipa, who were said to have been caught in the crossfire. Inspector General of Police RK Vij told PTI that the two villagers were used as a shield by the Maoists in the gunfight (<http://www.ndtv.com/article/india/chhattisgarh-6-naxals-killed-in-encounter-58547>). Reports also carried news of a large quantity of arms and ammunitions having been recovered after the encounter, including a “huge cache of explosives” ([http://www.thaindian.com/newsportal/india-news/six-maoists-killed-in-chhattisgarh-encounter\\_100443592.html](http://www.thaindian.com/newsportal/india-news/six-maoists-killed-in-chhattisgarh-encounter_100443592.html)). The entire episode was hailed as a great achievement by Director General of Police (DGP), Vishwa Ranjan. [http://www.mynews.in/News/chhattisgarh\\_police\\_kill\\_eight\\_maoits\\_in\\_encounter\\_N98249.html](http://www.mynews.in/News/chhattisgarh_police_kill_eight_maoits_in_encounter_N98249.html)

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

The incident of Naxal encounter in Mahasamund district had occurred in a region with no prior history of significant Maoist activity, or associated presence of State security forces on a large scale, although one media report carried news of a “high level meeting” on the 7<sup>th</sup> of October in view of Maoists making inroads into Mahasamund district. (<http://sify.com/news/maoist-threat-chhattisgarh-reviews-security-news-national-kkhaOMjfadg.html>)

Two villagers had died in this encounter. Confusing and contradictory reports were presented in the media on the circumstances surrounding these deaths - from the initial allegations of the villagers being Naxals, to their being unfortunate victims caught in crossfire, to their being used as human shields by the alleged Maoists. By and large, most of the media

reported the official version of what occurred during the encounter. However, around 12<sup>th</sup> October, different reports began to appear in which the responsibility of civilian death began to be laid on the security personnel as having entered a village home and shot at unarmed villagers, killing them.

(<http://timesofindia.indiatimes.com/india/On-Red-trail-STF-shoots-villagers/articleshow/6732536.cms>, <http://news.outlookindia.com/item.aspx?696927>, <http://www.hinduonnet.com/2010/10/12/stories/2010101261430500.htm>)

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

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

### **Investigation on 10<sup>th</sup> and 11<sup>th</sup> November 2010:**

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

*He was wandering around midday, looking for his lost bullock, when he heard rounds of firing (as many as 1000 to 2000) and 10-12 Naxals running ahead. Behind them was a large battalion in formation, shoulder to shoulder who were doing most of the firing. The Naxals themselves might have shot once or twice. He said he was afraid, and remained crouched and hidden in*

*grasses during the entire operation. He further added that this was the first time he had ever seen Naxals, and to his knowledge they had never been seen before in the region.*

At 3:45pm our two team members arrived with a tractor, and we were able to proceed. We realized then that we had been at only a very short, in fact walking distance (half a km), from Ledgidippa – our destination for the day.

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

#### **The incident as narrated by the family of Gautam Patel:**

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

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

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

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

*Meanwhile 50-60 police had entered the home following Dau. They accosted Uttam, the youngest brother, and asked him where they were hiding*

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

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

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

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

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

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

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



## **Our Observations:**

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

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

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

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

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

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

## **Visits to Reekhadadar, Sankra, Mahasamund**

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

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

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

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

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

### **At Sankra:**

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

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

### **At Mahasamund:**

We spent the next day trying to meet the Superintendent of Police Ankit Garg, DSP DK Sharma and Collector (Ms) D. Alarmelmangai. However, none of them were available at Mahasamund on the day of our visit. We could only meet Shri Bipin Manjhi, Additional Collector, in charge of the

magisterial enquiry, who did not share any information with us, claiming that he knew only as much as we did from media reports!

### **Our Findings:**

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

- Special Task Force (STF) carried out the primary attack on the Maoist team seen at Reekhadadar with the second battalion of Chhattisgarh Armed Forces providing cover. Around 60-70 Maoists were first seen and between 200-300 security personnel were involved in the encounter with them.
- There was no cross fire from the civilian victim's home or involving his house, nor were the two villagers used as human shields by the Maoists. The residents were engaged in routine household work at the time when the security force entered and killed the two villagers. The 'encounter' of the villagers was by the security personnel, and the eye witnesses of the bereaved family are very firm and open about this.
- The victims could not have been confused with the alleged Maoists who were in uniform and carrying guns, several of whom had already been killed by the security personnel in forest encounters. In contrast the victims were dressed in civilian clothes and were unarmed and Dau Konda was an apparently unarmed person who was being chased across fields. The security forces did not face any threat of any danger from the civilian victims at any time. The killings were carried out without any provocation on completely unarmed civilians who were cowering from fear and fleeing the forces
- The TI at Sankra told us that the police enquiry had concluded that the two villagers were killed by Naxalites. Not only does the TI's version contradict the family/eyewitness account of the killing of Gautam and Dau Konda, but the conclusion has been reached without any effort at any enquiry from the victims' families or other villagers.
- Only a small fraction of the announced government's compensation has reached the victims' families. The administration has not divulged any information – either to the family, or the village representatives, or to us — about how the remaining amounts are proposed to be disbursed.
- The attitude of the authorities towards the family of Gautam Patel after the incident is very disturbing. The family was actively discouraged from filing a complaint or registering their version of the incident at the police station. No elected representative, not even the Sarpanch, has visited the village where this ghastly incident has occurred.

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

-II-

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

**Background:**

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

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

It is significant that persons in the nearby villages did not have proper information about the condition of the injured girl and there was a rumour that she had died in hospital. We were relieved to discover that she was not only alive, but only the previous day to the visit of the team i.e. on 9<sup>th</sup> of November she had returned to the village having been discharged from the Bhilai Steel Plant Hospital.

**Investigation into the incident:**

The incident took place the next day after a landmine blast had occurred close to Sawargaon killing two jawans. It appears that whenever there is

such an attack, the security forces immediately carry out operations in the nearby villages, as in the instant case. (Please refer to Appendix IV being a schematic map of the site of the Kade and Sawargaon incidents.)

It was at about 8.30am that Manorama and Vijay Kujur along with their 3 young children including an infant were going to their field adjoining the main road to harvest their paddy, when a large posse of jawans more than 50 in number came there. On one side of the paddy field is village Kade at a distance of 200 meters from the field and on the other side of the paddy field is forest area. The jawans had mistaken a red sari tied as a scarecrow in another field on the other side of the road for a Naxalite banner and started beating up Vijay Kujur badly and saying that they were hiding Naxalites in their field. They took Vijay to the roadside and after beating him considerably told him to lie down because firing was going on.

Another father and son Patiram Bhuarya and Kamlesh Bhuarya were bringing in a cartload of harvested grain on the road. They were pulled down and badly beaten up. Then the three men were taken to the Camp. The Bhuaryas' grain subsequently lay on the road for 3 days, since no one dared to gather it up.

Meanwhile Manorama was made to crouch behind a big tree with her three children with her face to the tree. She was told that firing was going on, but she categorically stated that it was only the jawans who were spread out in a line who were firing at random towards the paddy fields, in the direction of the village and the bullets were flying past her. There were no Naxalites and there was no firing from any other side

Manorama also categorically states that she repeatedly pleaded and shouted out to the jawans that beyond her field there were no Naxalites but only children of the village including Jayanti Ekka d/o Dayanand Ekka, her 12 year old niece and a student of Class Vth of the village primary school. Jayanti was standing on a bund along with a few other children less than her age. The bund was made as a small stop-dam next to Niral Lakda's field where water was collected and people of Kade village used to take bath there. The children had gone there to take bath and prepare to go to school. From where the jawans were standing they could have very well seen that these are children. But they continued firing.

Some of the smaller children started fleeing in panic and Jayanti had stooped to collect her soap and clothes etc. when a bullet went through the front side of the pelvic region and came out from her back damaging her urinogenital system and her uterus possibly permanently. She fell unconscious and other little children dragged her back.

The Patel of the village Shri Chainsay first sent two villagers to the Camp to ask for treatment of the injured child. When they did not return till about 7pm, the entire village – Gonds and Oraons, women and men went to the Camp. Only then did the Camp people take the child to the government

dispensary at Mohla. The Sarpanch Mansingh, who also accompanied the injured child and her family members, played an important role in ensuring this, though the police and jawans accompanying them kept an eagle eye on him to check that he did not tell anyone anything about the incident.

Jayanti was then sent to the Bhilai Steel Plant Hospital where she was operated upon three times and she had been finally released on 9<sup>th</sup> November 2010 and told to come again after 3 months. All expenses in this regard seem to have been borne by the police/ government, but what exactly was the explanation given by them for Jayanti's injuries, we were not able to find out.

When the women members of the team examined Jayanti's wounds we were shocked. It was obvious that a part of her intestine was still protruding out of the gaping wound and stool was oozing out. No catheter had been introduced. Jayanti had not been given any discharge papers describing the treatment she had undergone or the medication she was being administered. The wound was not even bandaged and the child had tied an ordinary gamcha around her waist to cover it. Such an open wound in the spartan and rustic village conditions was certain to get infected, which could cause serious permanent damage, if not death, of the child. (Please refer to Appendix V – photographs of wounds sustained by Jayanti Ekka and Manorama Kujur at the site of the incident.)

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

### **An atmosphere of fear and insecurity:**

We were told by the villagers that while Naxals might have been coming earlier in the forests around their village, ever since the ITBP Camp has been set up at Kohka almost a year back, they are not aware of any Naxal movement here.

They said that the ITBP is enforcing that the villagers should not go out of their houses in the early mornings or late evenings/ nights. This has seriously affected their agriculture particularly since the fields or granaries are in forest clearings. The fear of and alienation from the ITBP, which come to the villages on regular searches is palpable in the villagers. They said that now all festivals, wedding celebrations and communal singing and dancing in the villages which were an integral part of tribal life is totally absent. Nowadays each night, the villagers lock their houses and go to sleep together in a common clearing. The villagers were also unhappy at the cutting of a large number of very old trees on either side of the village approach road by the security forces. We presume that this was on account of security considerations.

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

There was another shocking incident which was related to us. We were told that on 17<sup>th</sup> October, a somewhat better off resident of the village – a retired forest guard, his wife and his sister in law were all murdered in the night. A family in a neighbouring hamlet has been accused of this murder. We questioned the villagers closely and repeatedly, including the wife of the man who is being accused, whether this was a killing by Naxalites. We were uniformly told that this was a gruesome murder out of vendetta. They felt that it was most likely that an erstwhile driver of the guard who had felt himself cheated was behind the murder and that he and other persons of his village had bribed the police not to take action. It speaks for the atmosphere of fear and uncertainty that villagers here are living in, and also their alienation from the security forces, who are ostensibly deployed there for their protection, that they have not felt the confidence that these security forces can either ensure their protection or ensure that they get justice. One of the villagers told us that when this incident was reported in the media it was reported as a killing by Naxalites, but we were unable to confirm the same.

Another phenomenon that was reported to us, on the condition of anonymity was that several vocal persons in the adivasi society – Sarpanches or Panches or traditional heads of other villages in this block have been taken into detention by the security forces and their whereabouts are not known. Often they are informally detained for long periods in the camp maybe to act as guides or informers, some have become SPOs. Some of them, who were candidates in the Panchayat elections, were only released after they won. There were suggestions that they had been detained to prevent them from winning but people voted for them anyway. Some of the names mentioned were of the ex-Sarpanch of Seetagaon, Brijlal – the village head of Nanghutola, Shyam Singh – brother of the Patel of Kanheli, and Karuram the Sarpanch of Chapal. However these facts require a detailed enquiry, they are being mentioned here only to emphasise the sense of insecurity among the people.

### **Our efforts to talk to the authorities:**

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



We spent an entire day at the Collectorate at Rajnandgaon trying, unsuccessfully, to meet both the Collector and the Superintendent of Police. We were told that both of them were busy with various official meetings.

Our greatest concern was that immediate and specialized medical attention was required for Jayanti Ekka who was in a very vulnerable condition, and we did give an application at the Collector's office in this regard. We must put on record the fact that the Additional Collector Shri K.K. Agrawal responded promptly to this application and issued directions to the Chief Medical Officer, Rajnandgaon and Mohla to immediately get send an ambulance to pick up Jayanti and get her admitted in the Government hospital. Mr Agrawal assured us that he would try to ensure that finances would be made available from the Tribal Welfare or other Government departments.

### **Our findings:**

- It is quite clear that the jawans of the security forces did not make adequate efforts to ascertain the identities of the persons they beat up – Vijay Kujur, Kamlesh Bhuarya and Patiram Bhuarya, nor was there any concrete provocation for them have to have beaten them up so badly.
- The jawans engaged in indiscriminate firing, since from all accounts there was no firing whatsoever from any other party. The firing appears to have been merely to assert their domination over the area in retaliation to the previous day's incident.
- Manorama Kujur's repeated cries and warnings that there were children bathing at the bund were not heeded at all. The terrain was such that the children were visible across the fields and with slightly more caution the injuries to Jayanti Ekka could have been avoided.
- There was criminal delay on the part of the ITBP authorities in getting prompt treatment to the child and it required the entire village to go and demand treatment before it was given. It appears that the administration was also more concerned about covering up the incident than giving prompt medical attention to the child.
- There is apparently a fear of, and alienation from, the security forces in the minds of the villagers. This has been exacerbated by the lack of sensitivity shown to the necessity of the villagers to attend to their livelihood tasks of agriculture and gathering of minor forest produce.
- The refusal to allow private doctors to practice in the area has had serious consequences in regard to the access to medical help for the villagers.

- The 12 year old Jayanti Ekka was discharged prematurely without even the wounds being stitched in. She was not provided the necessary papers for the follow up of her treatment.
- Neither the police nor the administrative authorities have conducted any enquiry so far into the incident.

-III-

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

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

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

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

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

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

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

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

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

Times of India

#### **4 killed during Maoist attack in Gadchiroli**

**IANS**

**First Published: 08 Oct 2010 09:44:12 PM IST**

**Last Updated: 08 Oct 2010 09:49:36 PM IST**

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

*The dead included a woman cook and a caretaker.*

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

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

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

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

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

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

Express Buzz

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

Village Sawargaon lies in Tehsil Dhanora, district Gadchiroli, Maharashtra. There is a Camp of the Indo Tibetan Border Police at Village Koka in Chhattisgarh on the Maharashtra- Chhattisgarh border which has been established somewhere around May-June 2010. The Camp is about 3 km by a winding road and 1.5 km as the crow flies from the village Sawargaon. We

noticed that large permanent structures like watch towers etc were under construction in the Camp which was probably housed in tents/ temporary structures earlier.

There is a bridge on the river that marks the border of the two states and the ITBP Camp adjoins the bridge. A few hundred metres on the Maharashtra side of the bridge, a blast occurred on 9<sup>th</sup> October killing three ITBP jawans.

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

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

The villagers were of the opinion that the “bomb” came from the direction of the ITBP camp. As proof they showed the branch of a tree which was broken as the “bomb” made its way to blast in front of the hostel.

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

Besides the contention of the villagers is that this is not the only “bomb” that was hurled, at least one other “bomb” fell in the nearby paddy field and nearby places but didn’t harm anyone. Their description of a contraption which they have seen the ITBP people using appears to be in the nature of a rocket launcher.

Though the device did not appear to have made a very deep dent in the concrete road where it landed, the holes made by the “iron pieces” which flew out of it were very large. The holes were visible in the wrought iron board of the hostel, the wooden doors of the kitchen and store. The mud walls of the houses had been plastered over and whitewashed but the villagers described that the holes in the walls were big enough for a fist to have gone through them. It is also significant that the police collected every

single piece of the iron splinters, and one villager stated that a media person had offered to give Rs. 1000 for any piece that a villager may have stowed away. The entire scenario does not seem one which could have been created by a grenade thrown by a Naxalite. And besides the story of Naxalites hiding in the village is not consistent with their having thrown a grenade in the village. It is also difficult to believe that gravel chips from the road thrown up by the explosion could have caused such extensive damage.

After the explosion the villagers all rushed into their houses and closed the doors. The troops came in the evening apparently to round up some villagers and "punish" them or accuse them of harbouring the Naxalites; and only then realized they probably realized that people had been killed and injured. Four injured persons were taken away to a hospital in Dhanora/ Gadchiroli in a vehicle from the village itself. One of them died on the way to the hospital. The dead bodies remained unattended all night. The villagers described how they lit a bonfire and protected the bodies all night from dogs and other animals. The next morning the bodies were taken away for post mortem. It appears that the parents of the children were paid some compensation, possibly Rs. 50,000 but that was in Dhanora and no administrative officer or police officer had come to the village to enquire into the incident. Since the school was observing vacation when the team visited, none of the children living there could be interviewed. The teacher who was not present on the day of the incident told us that the families of the children had been promised Rs. 5 lakhs from the Union Government, but they had yet to receive such compensation.

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

### **Our findings:**

- The distances between the site of the blast, the village, and the ITBP Camp; the impact of the explosive device; and the direction from where firing and the "bomb" appeared to have landed makes the theory of a grenade attack by Maoists very unlikely. Besides the DSP Gadchiroli himself admits that the ITBP had lobbed a grenade against the Maoists hiding in the village. However the explosive device appears to have had greater impact than a grenade, as the spread of the holes caused by iron pieces indicates.
- It appears that the attack by the ITBP was carried out without proper confirmation of the presence of the Maoists in the village since the site of the blast was not so close to the village that such presence was a foregone conclusion. Rather the presence of shells in the fields also is more indicative that the ITBP must have fired shells indiscriminately in all directions.

- Prompt medical attention could have saved two lives, however the relations between the villagers and the ITBP appears to be of mutual distrust and alienation. Particularly the leaving of the dead bodies of the children all night was an exceptionally insensitive act.
- The presence of the village on the border of Chhattisgarh and Maharashtra has complicated the issue of responsibility for the incident with each government passing the buck to the other.
- The removal of all “iron pieces” and the plastering over of the holes in the walls of the hostel seems to be a hasty removal of evidence. It is also tragic that neither the police nor any administrative officer from either of the states has conducted any enquiry into the incident.

-IV-

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

**Background**

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

**The All India Fact Finding Committee**

The fact-finding team visited the site of the supposed encounter on 12<sup>th</sup> November. As has been the practice in recent times, particularly in Chhattisgarh, intelligence agencies and the police track and trail

independent fact-finding or research teams, to intimidate locals and the team, and hamper the investigation. Here too we were followed by men in plainclothes riding motorcycles. Despite their conspicuous and constant presence, we went ahead with our fact-finding, and were able to get useful information from our conversations with the local residents.

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

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

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

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

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

Moreover, the incident took place on the night of “Navmi” during the Durga Pooja season, which means that the labour bastis were bustling with activities in nearby Pooja pandals. Incidentally, a third road from the spot,

which comes from Kohka leads onto the celebrated Durga Pandal of Vaishali Nagar. On the night of the incident, the Vaishali Nagar Pooja Pandal had a special programme. Also in the ACC Club there was a programme by the celebrated Chhattisgarhi cultural team "Chandaini Gonda" which only ended between 12.30 and 1.00 am at night. Thus by and large, on the night the incident is supposed to have taken place, there were groups of people moving around on these roads late into the night at least up to 1am and none of these people reported hearing or seeing anything untoward, least of all a gun-battle.

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

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

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

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

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



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

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

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

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

### **Official version: lack of transparency**

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

The team first visited Jamul Police Station, Bhilai and met SHO R.P. Sharma. Mr. Sharma insisted on getting the full details of team members,

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

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

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

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

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

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

### **Ramifications of Jamul:**

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

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

### **Our findings:**

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

- The theory of a third “Naxalite” escaping was also highly improbable and the local people felt that since the area was a working class area which was engaged in vigorous union struggles against the industrialists particularly ACC, which is now Swiss Cement Multinational Holcim, this fact could be used by the industrialists, and the police who is very partial to them, to harass union leaders, heighten police deployment etc. This is indeed a very disturbing possibility and again reflects a fear and alienation of the common people from the law enforcing agencies.
- Another very important aspect which comes out clearly in our investigation is the absolute failure of the press or electronic media to report independently of the police handouts. Jamul is not an inaccessible or dangerous area, being in the midst of an industrial area and close to the towns of Bhilai and Raipur. Yet not only were the obvious inconsistencies in the police version not looked into by the media, but we were told that the media also refused to carry press releases of the Chhattisgarh Mukti Morcha pointing out such inconsistencies. An independent press is a necessary component of a democracy, the failure of the press to rise up to the occasion bodes ill for the preservation of civil liberties of citizens.

-v-

### **Recommendations/Demands**

1. Callousness and irresponsible haste, indiscriminate use of force and weaponry on mere suspicion, a desire to dominate and terrorise ordinary citizenry, and reacting against attacks by Naxalites through trigger happy retaliatory actions against ordinary citizens – these tendencies of the security forces were repeatedly observed by us in the incidents at Ledgidipa, Sawargaon, and Kade. Responsibility must be taken at the highest levels to effectively check such tendencies and protect the lives of citizens in militarized areas.
2. In the above circumstances, it is absolutely essential that the mandatory guidelines of the National Human Rights Commission with regard to encounters are followed absolutely strictly in letter and spirit. In all cases where a reasonable suspicion is expressed that an encounter is fake as in the case of the Jamul encounter, a case should be immediately registered and the investigation should be conducted by a police agency from outside the state.
3. We strongly condemn ‘firing to kill’; our security personnel must adhere in strictest compliance to the ‘code of conduct’ which is, as far as possible, to capture unharmed, even those that might be considered a threat by the State. The attitude of treating the loss of lives and limbs of ordinary citizens

in the operations by security forces as a “natural” or “justifiable” collateral damage cannot be accepted. No doubt it is this unconstitutional, criminal and immoral attitude that has resulted in fear and alienation from state security agencies in the minds of the citizens particularly the adivasis living in the forested areas.

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

5. An independent press is one of the prerequisites of a democracy and the press must be allowed to report independently even in situations of operations by security forces.

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

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

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

10<sup>th</sup> December, 2010

Human Rights Day.

## Schematic Map of the site of the Ledgidipa encounter

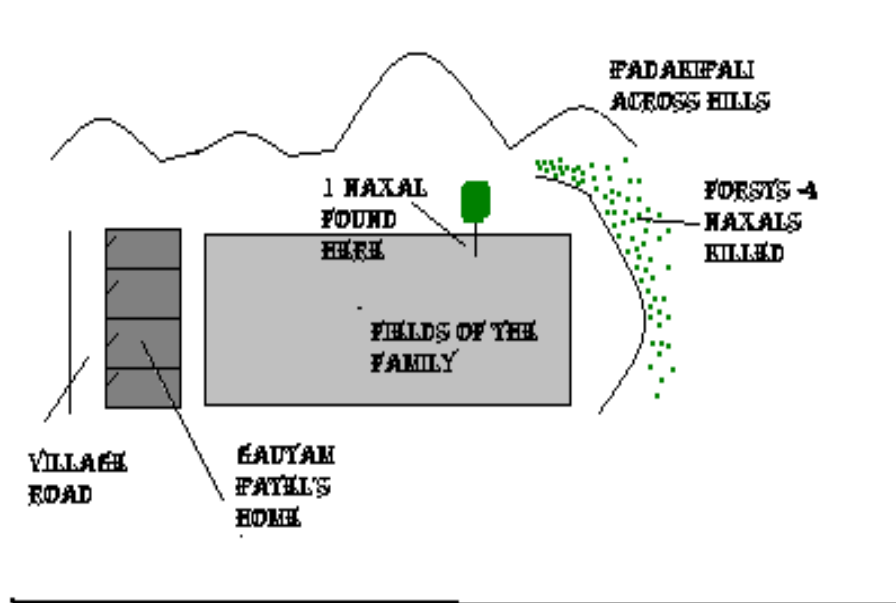


FIG 1

## Schematic Map of the kitchen of the Patel household

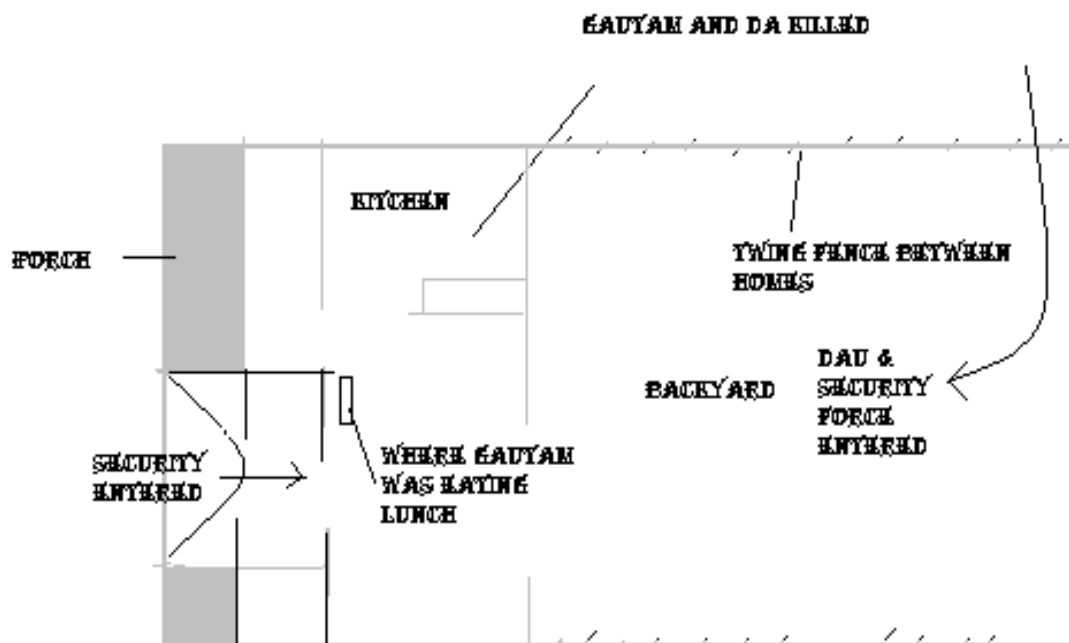
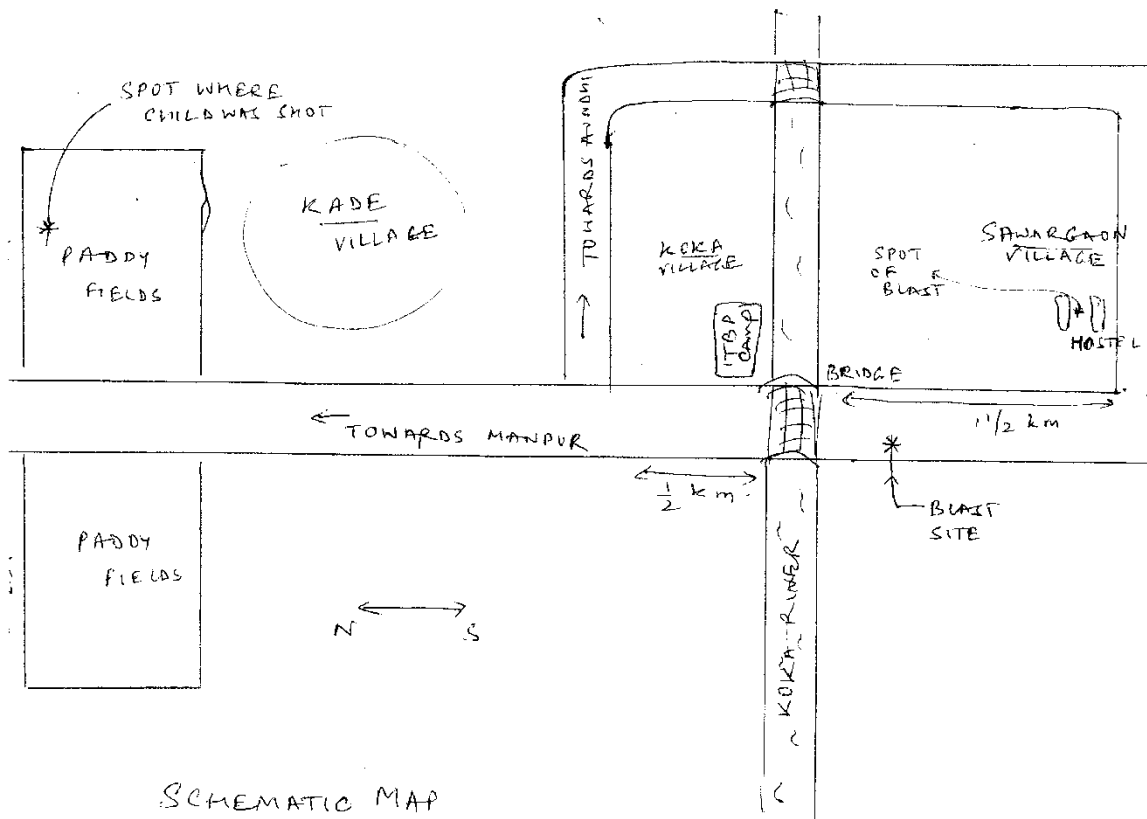


FIG 2. LAYOUT OF  
EADYAN PATEL'S  
HOME

**Photograph of the Patel's kitchen**



# Schematic Map of the sites of the Kade and Sawargaon incidents



SCHEMATIC MAP

(NOT TO SCALE)



## Photos of Jayanti Ekka and Manorama Kujur



The bullet went right through the child.



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



Gaping wound of Jayanti Ekka.



The children were bathing across the fields.

## Photos of the Sawargaon Ashram School and site



Hostel for tribal children at Sawargaon



The iron pole has been pierced.



The holes caused by the splinters of the explosive device.



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



The holes in the board are visible.



Site of the blast where the ITBP jawans were killed.

## Photos of the site of the Jamul encounter



Bogda Pul



Road to the quarry mine



Body lay where the chalk mark is shown



Wall of the Training Centre can be seen



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



The truck shows the raised road over the Bogda bridge. One body lay just at the foot of this .

## Letter submitted by the team to the Collector, Rajnandgaon

Dated 11<sup>th</sup> November 2010

To,

The Collector,  
District Rajnandgaon,  
Rajnandgaon, Chhattisgarh.

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

Sir,

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

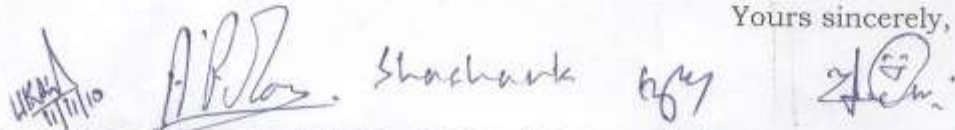
We have learnt through discussions with her and a number of villagers that on 9<sup>th</sup> October 2010 at about 8.30 am during a firing incident in the paddy fields she was severely injured by bullet passing through her abdominal region.

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

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

Thanking you,

Yours sincerely,



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

Local Address for Correspondence: Sudha Bharadwaj, General Secretary, Chhattisgarh PUCL, D-8 Housing Board Colony, Nehru Nagar, Bilaspur, C.G. (Mobile No - 9926603877)

प्रेषक :-  
जिला कार्यालय  
राजनंदगांव (छ.ग.)

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

कार्यालय निरीक्षक थाना जयपुरी साकरा  
जिला-महाराष्ट्र, राज.।  
क्रमांक... १४४/०१/११ दिनांक ३१/१०/१०

प्रति

सुधा भारद्वाज  
डी. ४ बाउसिंग चोर्ड  
काकोमी नै हर गरी.  
बिलासपुर जिला.

विषय सूचना के अधिकार अधिनियम-०५ के तहत  
आनकानी प्रकाश करने लायक ।

संक्रमांक :- दिनांक १३.१०.२०१०

निवेदन है कि उपरोक्त विद्यार्थिका  
संबन्धित पत्र का अपलोडिंग करनी की कृपा करी जिसके  
माध्यम से इसके द्वारा सूचना के अधिकार ०५ के तहत  
निम्न ३ बिन्दुओं पर आनकानी पायी गई है।-

सूचना के अधिकार अधिनियम ०५ की  
क्लॉज ४ (१) अ. ख. के तहत बिन्दु क्र. १ की आनकानी गरी  
दिनांक साफता चूकि अनेका के प्रकाश है। इस  
की धारिता सूचना से संबंधित है।

बिन्दु क्र. २ एवं ३ अंतक चौतम परेण एवं  
काऊ सिदा पत्र चोकर अरिम रिपोर्ट चूकि इसका पोटर  
अरिम की सूतक के तारिखान ही काऊ जकता है। निम्न  
उभेह ही दिने जाने का सातमान है। अनेर साध ही  
सूतक चौतम परेक की तारिखाने धिगादी परेक  
की गरी एक निगाह पत्र साधे के अस्तुत कितापे कि  
सूतक की अनेकाने अनेकाने तमप्राजात अरक कस्तौगा धिगादी  
को अनेका अनेर निर्या की नसे नदिना जाने। सूचना के  
अधिकार अधिनियम ०५ की क्लॉज ४ (१) के तहत सूचना  
धारिता सूचना से संबंधित है।

आभारपूर्वक रूप से साधित है।

५५०  
आनकानी

## Letter sent by TI Jamul to the PUCL

कार्यालय थाना प्रभारी जामुल, भिलाई जिला-दुर्ग (छ.ग.)

क्रमांक/15/2010

दिनांक 18.11.2010


प्रति,

सुधा भारद्वाज,  
जनरल सेक्रेटरी, छत्तीसगढ़  
पी.यू.सी.एल. डी.एट. हा.बो.कॉलोनी,  
नेहरू नगर, बिलासपुर छ.ग.


विषय :- सूचना के अधिकार अधिनियम 2005 के तहत जानकारी/दस्तावेजों की छायाप्रति उपलब्ध कराये जाने बावत।

-----0-----

कृपया विषयांकित पत्र का अवलोकन करने का कष्ट करें। जिसमें सूचना के अधिकार के तहत आपके द्वारा दिनांक 15.10.10 को सुबह थाना जामुल क्षेत्रांतर्गत पुलिस इनकाउण्टर के संबंध में दर्ज प्रथम सूचना प्रतिवेदन एवं मृतकों की पोस्टमार्टम रिपोर्ट चाही गई है। प्रकरण विवेचना में है। अतः सूचना के अधिकार अधिनियम की धारा 8(1)(ज) के प्रावधानों के तहत उपरोक्त जानकारी प्रदाय नहीं की जा सकती। रिपोर्ट से असहमत होने पर प्रथम अपीलीय अधिकारी के समक्ष निर्धारित अवधि में अपील की जा सकती है।  
चाही गई जानकारी के संबंध में प्रतिवेदन प्रस्तुत है।

  
जन सूचना अधिकारी  
एवं थाना प्रभारी, जामुल  
जिला- दुर्ग (छ.ग.)

प्रतिलिपि :- जन सूचना अधिकारी, पुलिस अधीक्षक कार्यालय, दुर्ग को संदर्भित पत्र क्रमांक/पु. अ./दुर्ग/सू.अ.अ./321/10 दिनांक 2.11.10 के पालन में सूचनार्थ।

  
जन सूचना अधिकारी  
एवं थाना प्रभारी, जामुल  
जिला- दुर्ग (छ.ग.)