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INDIGENOUS PEOPLE IN NAXAL-AFFECTED AREAS OF CHHATTISGARH

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1. Introduction

The phenomenon of Naxalism, also termed Left-Wing Extremism (LWE), has been one of the most enduring internal security challenges in post-independence India. Originating in 1967 in the village of Naxalbari, West Bengal, the movement initially espoused a radical ideology of armed struggle to overthrow the State and establish a revolutionary people's government. Over the decades, Naxalism spread across several states, finding strongholds in regions characterized by deep socio-economic disparities and state neglect. Among these, the tribal-dominated districts of Chhattisgarh—particularly Bastar, Dantewada, Sukma, and Bijapur—have emerged as epicenters of violent conflict between Naxalite insurgents and the Indian State.

The indigenous, or Adivasi, communities form the heart of this conflict. Their vulnerable socio-economic position, coupled with geographic isolation and historical marginalization, has made them both targets and victims of Naxalite influence. One of the most pressing issues in this context is the forced recruitment of tribals, including women and children, into Naxalite ranks. This raises a fundamental legal and moral question: who is punishable—the recruiter who coerces, or the recruit who acts under compulsion?

The recently enacted Bharatiya Nyaya Sanhita (BNS), 2023, which replaced the Indian Penal Code (IPC), offers an opportunity to revisit the conceptualization of criminal liability in such contexts. This paper attempts to explore the accountability dilemma, situating it within the lived realities of tribal communities, India's constitutional promises, and evolving criminal law.

2. Indigenous Communities in Naxal-Affected Areas

Chhattisgarh's tribal population constitutes about 30% of the state's demography, with Bastar division having some of the highest concentrations. The Gonds, Murias, Halbas, and Marias, among others, inhabit forested terrains

rich in minerals but remain socio-economically disadvantaged. Historically, they have faced alienation due to displacement, lack of access to education and healthcare, and exploitative interactions with state institutions. The very terrain of Bastar and Dantewada—dense forests, hilly stretches, and poor connectivity—enables Naxal operations and simultaneously isolates tribals from mainstream governance. Poverty, illiteracy, and absence of livelihood opportunities create fertile ground for insurgents to manipulate or coerce these communities. The state's counterinsurgency strategies, such as Salwa Judum, have further deepened mistrust, often exposing tribals to violence from both the Naxals and security forces.

3. Recruitment Mechanisms of Naxalites

Naxalite recruitment in Chhattisgarh occurs through a mix of coercion and persuasion. At one end, cadres employ outright threats, abductions, and intimidation to force young men and women to join. At the other, they use ideological indoctrination, promising empowerment, social justice, and liberation from state oppression. Children are particularly vulnerable; reports suggest recruitment of minors as young as 12

into so-called Bal Sangham units. Women too are disproportionately affected, often recruited under the guise of empowerment but subjected to exploitation. The line between voluntary and involuntary participation is blurred: while some join under social pressure or fear of retribution, others are psychologically manipulated into believing in the revolutionary cause. Thus, the act of recruitment is not merely physical coercion but a layered process involving misinformation, communal pressure, and exploitation of tribal vulnerabilities.

4. Legal Framework under Bharatiya Nyaya Sanhita (BNS), 2023

The BNS, 2023, marks a historic overhaul of India's criminal law. Replacing the colonial IPC, it aims to modernize definitions of crime, incorporate technological realities, and strengthen provisions related to terrorism and organized crime.

Relevant provisions for Naxal-related offenses include:

Section 113 – Organized Crime: covers participation in and abetment of criminal syndicates.

Section 114 – Terrorist Acts and Support: criminalizes committing, aiding, or financing terrorism.

Section 61–62 – Abetment: broadens liability for those who encourage or compel another to commit an offense.

Section 73 – Criminal Conspiracy: punishes agreements to commit illegal acts.

Section 147 – Waging War against the Government of India.

Section 150 – Acts Endangering Sovereignty, Unity, and Integrity.

The BNS framework emphasizes *mens rea*—the guilty mind—as the cornerstone of criminal liability. This becomes significant in cases of forced recruitment: can a recruit who acted under duress be said to possess the necessary intent?

5. Related Special Laws

Beyond the BNS, a web of special legislations governs Naxal-related offenses:

Unlawful Activities (Prevention) Act (UAPA), 1967: the principal anti-terror law, criminalizing membership of banned organizations, terrorism financing, and related support activities.

Juvenile Justice (Care and Protection of Children) Act, 2015: mandates care and rehabilitation for minors in conflict with law, prioritizing reform over punishment.

SC/ST (Prevention of Atrocities) Act, 1989: safeguards tribal identity and penalizes exploitation or violence against Scheduled Tribes.

Constitutional Provisions: Article 46 (promotion of Scheduled Tribes' interests), Article 244 (administration of Scheduled Areas), and Article 342 (recognition of Scheduled Tribes) provide the foundational framework for tribal welfare.

Together, these legal regimes establish that tribal recruits, particularly minors, are entitled to protection. However, ambiguity persists for adult recruits coerced into Naxalism.

6. Who is Legally and Morally Accountable?

The principle of *mens rea* dictates that criminal liability attaches only where there is intent or knowledge. Forced recruits – especially children – lack the volition necessary for criminal responsibility. International criminal law, as reflected in cases of child soldiers in Africa, underscores the recognition of forcibly recruited individuals as victims rather than offenders.¹⁰

Thus, recruiters who coerce or manipulate tribals must bear primary liability. The recruited, particularly minors and women, must be treated as victims entitled to rehabilitation. Yet, the case becomes complex for adults who, though coerced, may still commit violent acts. Here judicial discretion becomes critical: courts must distinguish between acts done under compulsion and those reflecting voluntary alignment with Naxalite ideology.

7. A Middle Path: Minimum Punishment for Surrendered Adult Recruits

Not all recruits are minors or entirely unaware of their actions. Some adults, though pressured, may understand the illegality of their involvement. Granting them blanket immunity risks undermining deterrence. At the same time, equating them with recruiters would be unjust.

A pragmatic solution lies in graded accountability:

- Light or symbolic punishment for surrendered recruits, ensuring recognition of wrongdoing without harsh criminalization.
- Mandatory legal literacy and civic training, equipping them to resist future recruitment.
- Rehabilitation programs offering vocational training, education, and reintegration opportunities.

Such a model balances accountability with compassion, reinforcing the State's commitment to both justice and tribal dignity.

8. Ethical and Human Rights Dimensions

The forced recruitment of tribal's implicates fundamental human rights. The right to life, dignity, and personal liberty under Article 21 of the Constitution is directly undermined when individuals are coerced into violence.

International parallels abound. The recruitment of child soldiers in Sierra Leone, Uganda, and Congo has been condemned globally, with the International Criminal Court (ICC) categorizing such practices as war crimes. India, while not in an international armed conflict, faces similar ethical imperatives.

A human rights approach demands that tribal recruits be treated not merely as criminals but as victims of systemic neglect and insurgent exploitation. The State's role extends beyond prosecution—it must actively safeguard vulnerable communities.

9. State Policy and Rehabilitation Initiatives

Chhattisgarh has experimented with surrender and rehabilitation policies, offering financial

incentives, vocational training, and housing to surrendered Naxals. While well-intentioned, implementation remains plagued by corruption, inadequate monitoring, and lack of trust. Many surrendered cadres complain of harassment or non-delivery of promised benefits.

For genuine reintegration, policies must prioritize:

- Community-based reintegration, involving tribal leaders and local institutions.
- Transparent delivery of incentives, monitored by independent agencies.
- Psychological counseling and trauma support, particularly for women and children.
- Education and employment opportunities, ensuring sustainable alternatives to insurgency.

Without such measures, surrender schemes risk being tokenistic, failing to break cycles of violence.

10. Recommendations

- Amend BNS/UAPA to explicitly recognize “forced recruitment” as a mitigating factor.
- Create a graded punishment system, distinguishing between recruiters, voluntary cadres, and coerced recruits.
- Expand rehabilitation programs, integrating legal awareness, livelihood generation, and psychological support.
- Train police, prosecutors, and judges in tribal rights, cultural sensitivity, and the nuances of forced recruitment.
- Strengthen state presence in tribal areas through schools, healthcare, infrastructure, and employment.
- Use community leaders and surrendered Naxals as peer educators to counter Naxalite propaganda and aid deradicalization.

11. Conclusion

The plight of indigenous people in Naxal-affected Chhattisgarh reveals the deeper failure of state institutions to deliver justice, welfare, and dignity. Forced recruitment into Naxal ranks is not merely a criminal law issue—it is a reflection of socio-political alienation.

In this matrix, recruiters and propagandists must face the severest punishments. The recruited, especially minors and coerced adults, must be treated with empathy, given minimal punishment upon surrender, and provided avenues for rehabilitation.

A balanced framework—anchored in the BNS, supported by UAPA and constitutional protections, and guided by restorative justice—offers the best path forward. Protecting tribal dignity while curbing indulgency requires not only strong laws but also humane state action.

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