

IN THE SUPREME COURT AT NEW DELHI
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. 250 OF 2007

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

NANDINI SUNDAR and ors

PETITIONERS

VERSUS

STATE OF CHATTISGARH

RESPONDENTS

REJOINDER AFFIDAVIT

I, Nandini Sundar, D/o S. Sundar, aged 40 years, resident of New Delhi, do hereby solemnly affirm and state on oath as under:

1. As the petitioner in the present petition I am fully aware of the facts and circumstances of the case and competent to swear this rejoinder affidavit.
2. I deny each and every averment made in the said counter Affidavit except those which are specifically admitted herein.
3. At the outset, the Petitioners make it clear that they are not supporters of the Naxalite movement or atrocities committed by them. The Petitioners are on record to condemn the atrocities of Naxalites.

4. The following facts regarding the Salwa Judum are evident:-
- (a) Salwa Judum is a vigilante force which is supported by the State Government.
 - (b) The Special Police Officers (SPO), consisting of young men and women are recruited by the Salwa Judum and subsequently are armed by the Government.
 - (c) Villagers are forced to move into camps called "base" camp from their villages by force employed by the Salwa Judum .
 - (d) Atrocities have been committed on villagers by the members of Salwa Judum.
 - (e) Many thousands have fled to Andhra Pradesh to escape the atrocities committed by the Salwa Judum.
 - (f) The State Government has done nothing to stop the Salwa Judum. On the other hand it is evident from the affidavit in reply that the State has supported the Salwa Judum. Same is further evident from the fact that not a single criminal case has been instituted against any member of the Salwa Judum.
 - (f) As result of forceful eviction of villagers into camps, villages have become deserted and those remaining are without any basic amenities.
5. Such action on the part of the State Government is against the law laid down by this Hon'ble Court in the case of DK

Basu v. State of W.B .reported (1997) 1 SCC 416, wherein it was held that:

“Challenge of terrorism must be met with innovative ideas and approach. State terrorism is no answer to combat terrorism. State terrorism would only provide legitimacy to ‘terrorism’. That would be bad for the State, the community and above all for the rule of law. The State must, therefore, ensure that various agencies deployed by it for combating terrorism act within the bounds of law and not become law unto themselves. That the terrorist has violated human rights of innocent citizens may render him liable to punishment but it cannot justify the violation of his human rights except in the manner permitted by law.”

6. The constant affirmation of the State of Chhattisgarh in the Counter Affidavit that it is to combat Naxalism and to resolve the problem of Naxalism that the State is supporting the activities of the Salwa Judum is no answer to the allegation that the Salwa Judum has run amok and that the State is sponsoring and conniving in it. It is respectfully submitted that such support is nothing but State terrorism.
7. The allegation of the Respondent that the petitioners are sympathetic to and supporting the cause of the Naxalites is not correct. The petitioners have openly criticized both

Naxalites and the Salwa Judum movement (**pg 165 -166, 188 of the petition**). The Petitioners have also written newspaper articles in which, while recognizing the need to counter Naxalism and the authority of the government in fighting Naxalism, they have shown that Salwa Judum is part of the problem and not a solution. A true copy of the Article by the Petitioner No. 1 titled 'Salwa Judum not a path of peace' published in Economic Times on 1.7. 2006 is annexed hereto as **Annexure P 19**, A true copy of the Article titled 'In Chhattisgarh the Fight against Maoists has gone Horribly Wrong' published by the Petitioner No. 2 in the Hindustan Times on 5.6.2006 is annexed hereto as Annexure **P-20**, A true copy of the Article by the Third Petitioner titled 'The Saga of the Salwa Judum' published in the Hindu on 26.6.2006 is annexed hereto as **Annexure P – 21**. The petitioners oppose any kind of violence, whether by the Naxalites or by the Salwa Judum, and are anxious that the democratic process must be restored and the Constitutional Rights of the scheduled tribes should be recognised. The labeling of the petitioners as supporters of extremism shows an unwillingness to face the truth.

8. In fact, current ministers of the Union Government and former Chief Minister of the State have also objected to the Salwa Judum movement. A true copy of the news report published in

the Hindu on 9.9.2007 titled 'Review Salwa Judums Activities' wherein Union Minister State for Commerce Jairam Ramesh is quoted as saying 'the activities of Salwa Judum should be reviewed in the wake of the migration of the tribals to Andhra Pradesh' is annexed hereto as **Annexure P – 22**; A true copy of the news report published in the Telegraph, on 22.7.2006 titled 'Delhi Rethink on Judum' quoting Tribal Affairs Minister P.R.Kyndiah as saying 'arming the tribals to fight naxalites should be stopped. The strategy of Salwa Judum is no answer to the problem. What happened in Chattisgarh is very painful' is annexed hereto as **Annexure P – 23**. A true copy of the article written by Ajit Jogi, former chief Minister, dated 30.6.2006 published in the Indian Express titled 'Time to call off the Salwa Judum' is annexed hereto as **Annexure P – 24**.

9. The National Commission for the Protection of Child Rights (NCPCR) which visited Dantewara district in December 2007, has noted the 'enormous tragedy' the tribals, particularly women and children, are undergoing. The fact-finding team comprised of Dr. Shantha Sinha (Chairperson, NCPCR), Mr. J.M. Lyngdoh (Former Chief Election Commissioner of India), and Mr. Venkat Reddy (MV Foundation, Hyderabad). Public hearings were held in Khammam and Dantewara and they recorded and received a number of testimonies, which have

been included in their report: 'Every testimony included a narrative of extreme violence committed against them, their families and property, by the Naxalites, Salwa Judum and the security forces. Many people shared accounts of family members being killed and women raped by the Salwa Judum.' The Commission also recorded testimonies that 'Salwa Judum has forced many villagers to move to the camps, and burnt houses, livestock and in some cases standing crops, so that those who stay back in villages have no means of subsistence.' It also recorded statements that the tribals are not allowed to leave the camps and return to their villages – 'most who do so have been doing so surreptitiously.' A true copy of the Report of the National Commission for the Protection of Child Rights, Delhi titled 'Visit to Dantewara (Chhattisgarh) and Khammam (Andhra Pradesh) to investigate Status of Health and Education of Children affected by Civil Unrest' dated 24th January 2008 is annexed hereto as Annexure **P-25**.

10. Well known security experts, such as the Director of the Institute for Conflict Management, have also described Salwa Judum as 'misguided and misconceived'. A true copy of the article by Ajai Sahni, Director, Institute for Conflict Management titled 'Look Who is waving the red flag now' dated 2.3.2006 published in the Indian Express which refers

to the Salwa Judum as 'misguided and misconceived' and as an 'often violent state led mobilisation of the tribals against the Maoists that is anything but the spontaneous 'uprising' portrayed in official pronouncements' is annexed hereto as **Annexure P – 26.**

11. From the settled law that that the state cannot resort to terror as a means of countering terror, to responsible individuals in government and public position expressing concern over vigilantism, there is enough of a Constitutional support against the challenge of vigilantism. The respondent state would do well to recognize its obligations to preserve life and liberty and dignity of its citizens and correct itself and not indulge in the irresponsible act of shooting the messenger. Here it must be noted that even the genuine concerns regarding Salwa Judum of institutions of the state like the National Commission for Women and the former Chief Minister of the state of Chhattisgarh have been unceremoniously dismissed as false or as supporting Naxalism. A true copy of the article in the Hindustan Times dated 26.12.2006 written by Ejaz Kaiser titled 'Salwa Judum Divides Congress in Chhattisgarh' which quotes the Leader of the Salwa Judum and the leader of the Opposition Mahendra Karma as calling the National Commission for Women report a 'farce and devoid of truth' and also quotes several BJP leaders as stating that all those

opposing Salwa Judum were 'anti national' is annexed hereto as **Annexure P – 27.**

12. This Honourable Court must take account of the fact that vigilantism and private militias are on the rise across the subcontinent. If a blind eye is turned and private militias like the Salwa Judum are given the free run of the land (in the name of countering extremism) it spells the death knell for the rule of law. Annexed hereto as **Annexure P – 28** is a copy of the article titled 'When State wants to wither away' by Pratap Bhanu Mehta, the President of the Centre for Policy Research published on 8.2.2008 in the Indian Express in which he says 'Salwa Judum, the entity the State helped create to combat Naxalism violates every principle of Domestic and International Law'. A true copy of the Article by Bijo Francis titled 'Can Private Militias be Legal?' published in the UPIAsiaonline.com on January 29 2008 is annexed hereto as **Annexure P – 29.**

13. This Hon'ble Court by its Judgment dated 12.12.1996 in the matter of Paramajit Kaur vs State of Punjab (Writ Petition (Criminal No. 497/1995) ordered an enquiry and finally a determination by the NHRC regarding the violation of human rights by state agencies in the context of terrorism. The argument that this was a situation where the state was

countering terrorism did not weigh at all with this Court when it came to the protection of the rights of citizens.

14. The petition is neither vague, nor lacking in particulars. It brings in sufficient material to indicate the extent of depredation, including specific names of victims and their villages. There is also enough evidence to cast doubt on the veracity of the facts and figures provided by the government, indicative of an attempt to cover up serious violations of fundamental rights, which can only be settled through an independent, impartial enquiry. In the case of *Bandhua Mukti Morcha versus Union of India* (1984) 3 SCC 161 the Court observed that it has under Art 32 the powers to appoint its own Commissioners to act as its eyes and ears. In several other cases including the *Forests Matter (T.N.Godavarman Thirumulkpad versus State of Tamil Nadu WP (C) No. 202 of 1995)*, and *Paramjit Kaur Versus Union of India* (1999) 2 SCC 131 and *Andhra Pradesh Pollution Control Board Versus M.V.Nayudu* (1999) 2 SCC 718 this Hon'ble Court has appointed its own Commissioners to determine the facts of the case.

REPLY TO PRELIMINARY OBJECTIONS:

15. The contents of para 3 of the Counter Affidavit are denied as being baseless and contrary to the rulings of this Hon'ble Court. The petition provides specific cases of violation of Article 21. Killings by the Salwa Judum are listed at the following pages of the petition (pages 144-145, 173-175, 255-265, 269), arson (pages 146-148, 176-178, 287-288), rapes and violence against women (pages 146, 204-209, 215-222, 244-245, 268). In addition there are detailed testimonies provided as annexures in the report of the National Commission for the Protection of Child Rights Annexure P-25, and in the annexures of connected WP 119 of 2007. The full particulars can only be established following an independent enquiry. This Hon'ble Court has held in several cases that where a person or class of persons to whom legal injury is caused by reason of violation of a fundamental right is unable to approach the Court for judicial redress on account of poverty or disability or socially or economically disadvantaged position, any member of the public acting in a bonafide manner can move under Article 32. In the connected Writ Petition i.e., WP No. 119 of 2007 three persons from amongst the victims of the Human Rights abuses of the Salwa Judum have moved this Hon'ble Court in a representative capacity. In this case, the State through its police and paramilitary forces is actively supporting the Salwa Judum and is thus

involved in the Human Rights abuses. Several thousand people have fled out of the State of Chhattisgarh to the neighbouring state of Andhra Pradesh and several thousand more are living in fear in their villages or hiding in the forests nearby. Those in the camps are under the control of the Salwa Judum leaders. Thus it is futile to contend that the victims should have resorted to normal criminal law reliefs to ventilate their grievances. It is therefore denied that the prayers are generic and indefinite. The prayers are specific and clear and in the light of the involvement of the state the prayer for an independent investigation is absolutely necessary as the said investigation has to be de hors the State of Chattisgarh.

16. The contents of para 4 are denied. It is submitted that in view of the specific facts of gross human rights violations detailed in the writ petition and set out in the paragraph above, prayer b is justified and this Hon'ble Court has in the past devised reliefs in the context of mass human rights abuses. An investigation, if ordered by this Court, will further reveal very specific violations.
17. The contents of para 5 are denied. As mentioned before this petition has been moved in public interest by persons in civil society to restore the fundamental rights of the scheduled

tribe citizens of Bastar, Dantewara and Bijapur districts. Nowhere does the petition canvass or support any political ideology other than the Constitution of India. It is ironic that the very fact of approaching the Hon'ble Court stemming from a deep and fundamental belief in the laws and procedures laid down by the Constitution should be read as supporting Naxalite ideology.

18. The contents of para 6 are denied. As submitted earlier in this rejoinder the prayers are capable of being enforced and the reliefs claimed have been granted in cases of mass human rights violations earlier by this Hon'ble Court. It is incorrect that this petition is based on Newspaper Reports. The petition is inter alia based on four reports (Annexures P – 4, P – 5, P – 6 and P – 7) of independent bodies. The petitioners have also given a table showing the killings by the Salva Judum compiled from a diversity of independent sources (please see pages 255-265 of the Petition). The Petition points in the form of reports and data to the Human Rights Violations by the Salwa Judum and security forces and seeks an independent inquiry on the basis of the same and the said prayer is not only reasonable, it is also perfectly legal and maintainable. In fact it is clear from the Counter affidavit that the State is a supporter of the Salwa Judum and stands by all its actions. The bald denials in the counter affidavit to the specific allegations in the writ petition should be taken by this Hon'ble Court to be admissions of the writ petition averments as there is not a single specific denial of the allegations made in the Writ Petition.

19. Para 7 does not require a reply.
20. The averments in para 8 with regard to Naxalism are irrelevant. The Salwa Judum is not a peaceful movement as claimed by the state and the gross abuses of Human Rights of the population of the districts of Bastar, Dantewara and Bijapur are set out in the Writ Petition. The relief camps set up are not in discharge of any constitutional obligation as claimed by the state but in the submission of the petitioner are a method of perpetration of violation of Human Rights. An independent investigation can establish how people arrived in these camps and whether and how many people want to stay in these 'base camps', as they are termed by Salwa Judum leaders. In fact the National Commission for the Protection of Child Rights report, Annexure P-25, clearly states that everyone in the camps wish to return to their original homes.

REPLY TO PARA- WISE REPLY

21. The contents of para 1 of the parawise reply are denied and the corresponding paragraph of the Writ Petition are reiterated. The first petitioner is a reputed Professor and Sociologist. She has been teaching in the Sociology Department in the Delhi School of Economics since 2005 and prior thereto has worked at the Centre for Law and Governance, Jawaharlal Nehru University, the Institute of

Economic Growth and Edinburgh University. She is widely recognized as an expert on Scheduled Tribes and was a member of the Planning Commission Steering Committee and Working Group on Scheduled Tribes (XIth plan); a Member of the Working Group on Decentralised Planning and Panchayati Raj Institutions, Xth Plan; a member of the Technical Support Group to draft Rules for the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2007; and member of the NCERT focus group on education for SC/STs, 2005. She serves on the governing bodies of several organizations. She has authored and edited four books, including one on Bastar, which received highly laudatory reviews. She is the co-editor of the prestigious journal, *Contributions to Indian Sociology*.

Petitioner 2, Ramachandra Guha is the author of 'India after Gandhi: The History of the World's Largest Democracy', which has been widely acclaimed within the country and outside as the first authoritative history of independent India. He has written or edited more than twenty books published by reputed academic publishers in India and abroad. He has served on selection and review committees of the Ministry of Environment and Forest, and is currently a Member of the Advisory Board on Culture of the Government of India

Petitioner 3, Dr. E.A.S.Sarma was a member of the Indian Administrative Service (IAS) from 1965 till 2000. During 2001-04, he was Principal, Administrative Staff College of India, Hyderabad. He held several senior positions in Government of India including Secretary in the Ministries of Power and Finance. In the Government of Andhra Pradesh, he held several assignments, including Commissioner & Secretary (Tribal Welfare) and Principal Secretary (Energy & Environment). Earlier, he worked at the field level in Asifabad Sub-Division in Adilabad District, where the population consisted predominantly of Adivasis. He chaired several expert groups in Government of India. These included the Expert Committee set up by the Department of Atomic Energy (DEA). He was a member of two Expert Groups set up by the Planning Commission, one on Equitable Development and the second one on Development Issues to deal with the causes for social discontent, unrest and extremism. He also chaired the Working Group set up by the Planning Commission to assess the States' resources for the Eleventh Five Year Plan. The petitioners have been moved to file the present petition not out of support for any political ideology but out of concern for the violation of the fundamental rights of the adivasis of Bastar, Bijapur and Dantewara districts.

22. The contents of para 2 of the parawise reply are denied and the corresponding paragraph of the Writ Petition is reiterated. It is denied that the petition is not maintainable as it does not point out any specific instance of violation of Article 14 or 19 (1) (a) as claimed. The petition provides specific cases of violation of Articles, 14, 19 (1) (a), 19 (1) (e) and 21. Killings by the Salwa Judum are listed at the following pages of the petition (pages 144-145, 173-175, 255-265, 269), arson (pages 146-148, 176-178, 287-288), rapes and violence against women (pages 146, 204-209, 215-222, 244-245, 268). In addition there are detailed testimonies provided as annexures in P-25, and in the annexures of WP 119 of 2007. The full particulars can only be established following an independent enquiry. It is reiterated that this is a genuine Public Interest Petition.

23. The contents of para 3 of the parawise reply are denied and the corresponding paragraph of the Writ Peittion are reiterated. The documents annexed in para 3 of the Writ Petition are available on the website of the Ministry of Home Affairs ie <http://www.mha.nic.in/Annual-Reports/ar0405-Eng.pdf>.; <http://www.mha.nic.in/Annual-Reports/ar0506-Eng.pdf>. Others were widely distributed in published form to all MPs and circulated to all government departments. The Collector's work proposal was personally handed over by the

Collector to a group of 5 people, including one of the petitioners, in his office in the Dantewara Collectorate, on 28.11.05. The submission of the Counter affidavit that the documents of the Ministry of Home Affairs are barred by the Official Secrets Act is a desperate attempt on the part of the Respondent to not answer the averments of the petition when the same squarely apply to the actions of the State.

24. The contents of para 4 of the parawise reply are denied and the corresponding paragraph of the Writ Petition is reiterated. The measures taken by the state include killing, arbitrary detention, involuntary displacement, rape and arson, and as such are violative not only of the fundamental rights of citizens in the Constitution, especially Article 21, but Common Article 3 of the Geneva Convention to which the Government of India is a signatory.
25. The contents of para 5 (a) do not need reply. The contents of para 5 (b) and (c) of the parawise reply are denied and the corresponding paragraphs of the Writ Petition are reiterated. It is reiterated that Salwa Judum is a state-sponsored strategy, with the state exercising both overall control and effective control and endorsing its acts. The participation of police and paramilitary forces in providing logistical support and security cover to the acts of the Salwa Judum (Annexure

P 2 Colly and P3) and the public statements of the Chief Minister, the Home Minister and public officials justifying the Salwa Judum (Annexure P 8 Colly) are sufficient to hold the state liable for all the violations of fundamental rights carried out by the Salwa Judum.

Despite complaints being brought to the notice of the authorities by the petitioners herein as well as the other bodies which have carried out fact-findings, no official investigation has been carried out and no action has been taken against any Salwa Judum activist or SPO, indicating that the Chhattisgarh government is supporting Salwa Judum and the illegal acts of SPOs by turning a blind eye to their violent activities. True copy of the letter of the Chhattisgarh government's Public Information Officer, District Office Dantewara, bearing no. S.No./ S.P./ Dantewara/ DDO/RTI/M-1018/07, Date 4/04/07 stating that no criminal case has been registered against any SPO is annexed hereto as **Annexure P-30**.

26. The contents of the parawise reply to para 5 (d) are denied and the corresponding para of the writ petition is reiterated. That Salwa Judum has involved a policy of clearing villages and forced relocation in camps has been attested to by the National Commission for the Protection of Child Rights,

Annexure P-25, as well by a number of independent, journalists from the BBC, New York Times, The Guardian, The Economist, Outlook, Tehelka and the AFP, in addition to the reports already annexed as Annexures **P4** and **P5**. A true copy of the report by the BBC's Jill McGivering dated 30.6.06 titled 'Displaced by India's red threat' is annexed hereto as **Annexure P-31**. A true copy of the report by Randeep Ramesh titled 'Inside India's Hidden War' dated 9.5.06 is annexed hereto as **Annexure P -32**. An impartial independent enquiry both in camps and in villages will establish a fuller picture of the modus operandi of Salwa Judum.

27. The contents of the parawise reply to para 5 (e) are denied and the corresponding para of the writ petition is reiterated. The assertions regarding the tender age and arming of SPOs are reiterated (Kindly refer to Annexure **P 9**). In addition, annexed hereto as **Annexure P - 33** is a photograph of a police memorial to an SPO, Sujeet Kumar Mandavi, killed in a Naxalite attack on Rani Bodli outpost which shows that he was underage, being merely 17 years when he died. The Chhattisgarh government has mendaciously claimed in a list of SPOs killed at Rani Bodli in March 2007 (no. 56 in the list) that he was aged 25. Annexed hereto as **Annexure P 34** is a photograph of the memorial to SPO Manglu Ram, who was 18 years old when he died at Rani Bodli in March 2007. His age

has been misrepresented as 28, in the list of SPOs killed at Rani Bodli at no. 31. Annexed hereto as **Annexure P-35** is the list of SPOs killed at Rani Bodli and their ages, as provided in Letter No. 5455/Right to Information/2007 dated 11.9.07 from the office of the Collector, Dantewara District, South Bastar. The Collector, Dantewara should be held responsible under Sec 167 IPC. Specific testimonies regarding the depredations by SPOs have been annexed to WP 119 of 2007. It is reiterated that an independent impartial enquiry will reveal a large number of SPOs who were minors when recruited, the nature of their duties and the violations carried out by them.

28. The contents of the parawise reply to para 5 (f) are denied and the corresponding para of the writ petition is reiterated. Charges of extortion and looting were made by shopkeepers and villagers to the different groups which investigated. The petitioners were themselves attacked, and had their camera taken by some SPOs and Salwa Judum activists. (Please see pages 139, 153-4, 157 of the Petition).
29. The contents of the parawise reply to para 5 (g) – (h) are denied and the corresponding paras of the writ petition are reiterated. The Chhattisgarh government has patently failed to control the Naxalite problem, and has the highest number of

deaths in the country due to Naxalism. What is being questioned here is not the authority or intent of the state government in controlling Naxalism, but the legality and the efficacy of its methods. Security experts have argued that Salwa Judum is a misguided and misconceived policy (please see Annexure **P 26** supra). The escalation of violence can be directly traced to the inception of Salwa Judum (Annexures **P 10 and P- 11**) and as such the government is responsible for making its citizens more vulnerable to Naxalite attacks. Though the counter affidavit states that in the event the Salwa Judum breaches the law the State would take necessary action, it does not cite a single instance of having taken such action. Such inaction encourages the belief that no relief is to be gained from the state and thus provides ballast to the Naxalites.

30. The contents of the parawise reply to para 5 (i) are denied and the corresponding para of the writ petition are reiterated. A number of specific cases of arbitrary arrests have been mentioned in the petition (pages 100-103, 149, 206 - 7). A report by the International Association of People's Lawyers, titled 'Preliminary Observations and Findings of the IAPL team on the Human Rights Situation in Chhattisgarh India, particularly of the adivasis in the Bastar region' with a case

study indicating arbitrary arrest and lack of access to legal aid is annexed hereto as **Annexure P 36.**

As submitted earlier in this rejoinder, villagers are unable to register FIRs when it is the police which is attacking them, and when they are fleeing for their lives into the forests or neighbouring states. The Chhattisgarh government has itself admitted that 86 Naxalites and 10 sangham members were killed in encounters between 2005-2007. However, no enquiry has taken place into these encounters as per NHRC guidelines. While it is not disputed that Naxalites have killed a number of people, the veracity of the details provided by the Chhattisgarh government are disputed, since they indicate an attempt to cover up killings by Salwa Judum. A list of people compensated in 2007-8, because their relatives have been killed, ostensibly by Naxalites, includes at no. 22, one Mudaram Bhogami, s/o Channu; village Dorguda whose mother had given a statement to National Commission for SC/ST that her son was killed by Salwa Judum in 2006 (see page 237 of the Petition). It includes, at nos. 36-41, 6 villagers from Ponjer who were, according to their families, killed by the police in Santoshpur. A tabular analysis of the list of people killed by Naxalites, those who died 'during Salwa Judum' or those who died in encounters between police and Naxalites based on Letter No. 5455/Right to Information/2007

dated 11.9.07 from the office of the Collector, Dantewara District, South Bastar is annexed hereto as **Annexure P-37**.

31. The contents of the parawise reply to para 5 (j) – (k) are denied and the corresponding paras of the writ petition are reiterated. The fact-finding investigations based on interviews with villagers indicate large-scale involuntary displacement (Please see **p. 143, 199-201 of the petition**). This has been corroborated by the National Commission for the Protection of Child Rights, Annexure P 25 and by independent journalists (Annexure **P 31-32 supra**). A large number of people have fled to Andhra Pradesh indicating that they prefer the precarious life of refugees in Andhra Pradesh to the violence of the clash between Salwa Judum and Naxalites and do not want to be interned in Salwa Judum camps. Testimonies by refugees in Andhra Pradesh have been annexed to WP 119; and have been annexed to the report of the National Commission for the Protection of Child Rights, Annexure P 25. The Andhra High Court has taken cognizance of the plight of these refugees from Chhattisgarh and has stayed the Andhra Pradesh forest department from demolishing their huts on forest land. A true copy of the orders passed by the Hon'ble Andhra Pradesh High Court in WP 19594 of 2007, WP 19571 of 2007, WP 19599 of 2007, dated 27.9.2007 are annexed hereto as **Annexure P 38**.

32. The contents of the parawise reply to para 5 (l) are denied and the corresponding para of the writ petition are reiterated. The observations made in the petition regarding camps are reiterated. The condition of the camps is not up to Indian or international standards (Please see 154-156, 199-203 of the petition and the photographs of camps provided in **Annexure P-16**). The UNICEF report annexed by the petitioners as R/1 itself indicates the absence of any facilities for defecation, the risk of airborne diseases, and a number of other deficiencies. The UNICEF team visited only 8 out of 24 camps. As the report of the National Commission for the Protection of Child Rights states, based on as recent a visit as December 2007, 'Even within camps all services and entitlements are not completely secured. Lack of sanitation facilities emerged as a big problem within the camps. Pilferage of funds from camps was also alleged.' (See Annexure P25 supra). As the NCPCR report and news articles have indicated, villagers all wish to go home to their fields and livestock. Annexed hereto is the true copy of an article by Nitin Mahajan, titled "Home Beckons" published in the Indian Express on 19.11.2007 as **Annexure P 39**.
33. The contents of the parawise reply to para 5 (m) are denied and the corresponding para of the writ petition are reiterated.

As mentioned above, the majority of villagers wish to return home to their villages and fields. If it is established that people wish to return, it is because they have a greater sense of security in their villages than in the camps. Further, by far the larger population of the district is living in the villages. According to the 2001 census, the population of the entire district of Dantewara in 1220 villages is 7.19 lakhs. According to the government's figures, 644 villages or roughly half of the total villages, comprising a population of approximately 3 lakhs are affected by Salwa Judum. Even assuming the combined numbers of those displaced in camps or neighbouring states is 1 lakh, this means that the rest of the population of these villages still prefers to stay in and around their villages.

Newsreports suggest that the preparedness of the police in camps is not enough to ensure the safety of the inmates from Naxalite attacks. Annexed hereto is the true copy of a newspaper report of an internal official investigation showing dereliction of duty by policemen in Rani Bodli camp, by Nitin Mahajan, titled, 'Cops Ran Away-Let Naxals mow down 55', published in the Indian Express, dated 1.9.2007, as **Annexure P-40.**

The number of deaths in the camps and villages is questionable, and can only be established through

independent enquiry. While the government has provided certain numbers of 49 people killed in Salwa Judum camps since 2005, and 463 in different villages in their counter, elsewhere they have provided different figures. According to the District Administration, 535 villagers and SPOs have been compensated for their relatives being killed 'during Salwa Judum'. According to police figures in the same document, the number of villagers and SPOs killed by Naxalites is 382 [See Annexure P-37 supra]. Given the discrepancy in the figures, the facts can only be established by an independent enquiry. Annexure R 2 is irrelevant and denied for want of knowledge.

34. The contents of the parawise reply to para 5 (n) and 5 (o) are denied and the corresponding paras of the writ petition are reiterated. The averment of the petition that there are no services in villages is supported by the report of the National Commission for the Protection of Child Rights, Annexure P 25, based on testimonies of camp inmates as well those currently residing in villages, that there are no schools, anganwadis or primary health centers in their villages. The Commission noted that 'A big problem is that schools and Anganwadi teachers have been shifted from the villages to the camps leading to a concentration of service-providers in camps and no services available to those who are still living in villages.' They strongly urged the government to restart services in the villages.

Annexed hereto is a list of villages from where schools and health services have been shut down, after February 2006 when Salwa Judum started in Konta block, as provided by the district administration in response to letter S.No./2003/R.T.I/07, Dantewara, Date. 2-4-2007, annexed as **Annexure P-41.**

The Government has itself admitted that some school buildings are being used as camps for security forces. This practice must be discouraged. The National Commission for the Protection of Child Rights has urged that schools be identified as 'zones of peace', which includes non-use of schools for any other than development purposes and separation of schools from camps. Even though some school buildings have been bombed by the Naxalites, it is the responsibility of the government to provide alternative facilities in the villages itself. Instead, all the teachers have been shifted to camps. Here too, however, as the NCPCR report notes, 'the general atmosphere of camps was not found to be conducive for children's education and development'. The NCPCR has also pointed to the educational problems of the refugee children in Andhra Pradesh, who are unable to switch from Hindi to Telugu medium. Annexed hereto as **Annexure P-42** is an article published in the Hindu on

25.7.2007 by D. Chandra Bhaskar Rao- Migrant Tribal families lives in distress.

35. The contents of the parawise reply to para 5 (p) are denied and the corresponding para of the writ petition are reiterated. The respondent's response is false and misleading. The Salwa Judum visits to villages include policemen and security forces and SPOs. That at least 6 people from Ponjer village were killed in Santoshpur on 31.3.2007 is admitted by government (**Annexure P-37 supra**). News reports suggest that a Chhattisgarh police internal probe has revealed civilian casualties in Santoshpur at the hands of policemen. Annexed hereto is a news report that appeared in the Times of India, dated 8.5.2007, titled 'Probe reveals Chhattisgarh police killed civilians' as **Annexure P-43**. Once again, it is reiterated that such matters of disputed facts can be settled by an independent enquiry.
36. The reply to grounds and prayers are denied and the grounds of the writ petition and prayers therein are reiterated.