

## Father Stan Swamy, Children and the Unholy State

Stan Swamy has brought to light the deplorable conditions in which the undertrials are barely surviving and has sought answers for such repressive and illegal measures meted out by the State, while also fighting for the rights of Adivasis in Jharkhand.



On the morning of August 28, 2018, several human rights activists from various parts of the country were [arrested](#) and the homes of few others were raided. 'Urban Naxal' is the new unceremonious epithet that has been conferred on these activists by sections of our cacophonous media. The raids, conducted by the Maharashtra Police, were carried out as part of a probe into the violence at [Bhima Koregaon](#), triggered by an event called Elgar Parishad held in Pune on December 31, 2017. One such 'Urban Maoist' is the 81-year-old Jesuit priest, Father Stan Swamy.

Stan Swamy lives on the outskirts of Ranchi in a room inside a campus called Bagaicha. The Maharashtra police along with local police officials came unannounced to his room at 6 am, with a document written in Marathi. Swamy does not know Marathi. The police confiscated his laptop, mobile phone and CDs. On the same day, Stan issued a [press statement](#) in which he categorically stated that he had nothing to do with the violence in Pune and expressed deep anguish at the spate of arrests on human rights activists. In fact, renowned retired judges, Justice Sawant and Justice Patil, have [publicly announced](#) that they organised the event and that the arrested activists have nothing to do with it.

So, who is this 81-year-old priest? Summarising his decades of work is hard but here is a tiny snippet of his work from recent times.

Having seen the fate of several innocent Adivasis languishing in jails on [false charges](#) of being "left wing extremists", Swamy championed the idea of doing a [research study](#) of Naxalite undertrials in Jharkhand. The reviews of the study can be found [here](#) and [here](#).

Some key findings of the study reflect rather poorly on the government. Ninety seven per cent of the 102 undertrials accused of being Maoists or 'helpers of Maoists' when interviewed, reiterated that allegations against them were wrong. A large number of fake cases under the Unlawful Activities Prevention Act (UAPA) and stringent sections of the Indian Penal code were imposed upon Adivasis and Dalits without evidence. About 96% of the respondents earned less than Rs 5,000 a month – indicating low productivity of their land holdings. The study exposed the misuse of criminal justice procedures to repress the undertrial detainees in the prisons. A large proportion of acquittals further corroborate the routine harassment that many innocent Adivasis are put through in the name of quashing "Maoism".

As part of the Persecuted Prisoners Solidarity Committee, Stan Swamy has questioned the illegality with which some undertrials have been put in solitary confinement following the banning of Mazdoor Sangathan Samiti in December 2017. To this effect, along with the now arrested lawyer Sudha Bharadwaj, Swamy wrote an article titled '[Illegal Solitary Confinement](#)' on April 7, 2018 in Economic and Political Weekly condemning the State's unconstitutional and inhuman treatment of its own subjects. They write: "Solitary confinement is envisaged only for convicts under Sections 73 and 74 of the Indian Penal Code, and that too on compliance of strict statutory conditions." Swamy has brought to light the deplorable conditions in which the undertrials are barely surviving and has sought answers for such repressive and illegal measures meted out by the State, that too without any Court order.

The provisions of the [Panchayats Extensions to Scheduled Areas \(PESA\) Act](#), 1996 granted special powers to the "fifth schedule areas" – Jharkhand being one of them. PESA exclusively empowers the gram sabha with (a) "right to mandatory consultation in land acquisition.." and (b) "mandatory recommendations by gram sabha or panchayat at appropriate level for prospective licenses/lease for mines..." Swamy has been vociferously questioning why this parliamentary Act has not been implemented anywhere. In the same context, Stan has highlighted the patchy implementation of Article 244(1) of the [5th Schedule of the Constitution](#) that stipulates the formation of a '[Tribes Advisory Council](#)' (TAC). According to the 5th Schedule, the TAC must regularly meet the governors and submit annual reports to the President. Stan has been asking why this constitutional provision has been routinely ignored by the government.

In this context, it is critical to look at [Pathalgadhi](#).

There has been an old Adivasi tradition to demarcate areas and place stone slabs in memory of their ancestors. The burial ritual is known as *sasan diri* in the Munda region (*sasan* is crematorium and *diri* is stone). From the late '90s, in order to spread awareness about PESA, led by former IAS officer B.D. Sharma and social worker Bandi Oraon, stone slabs with constitutional provisions under PESA and fifth schedule were inscribed. This came to be known as Pathalgadhi and is a way to assert constitutional forms of self-rule in scheduled areas. Pathalgadhi has recently become more visible in some parts in response to some policies by the BJP-led

Government of Jharkhand (GoJ). The GoJ wanted to amend the Chotanagpur Tenancy Act, 1908 and the Santhal Pargana Tenancy Act, 1896. Both the laws prohibit the sale of Adivasi lands to non-Adivasis. However, a strong resistance by non-violent people's movement prevented the passage of the proposed amendments by the Governor of Jharkhand. Swamy stood congratulating this non-violent people's victory.



The 'Palthgadi' practice is commonplace in tribal areas of Khunti, Jharkhand. The perpetrators are reportedly Palthgadi supporters. Credit: Niraj Sinha/The Wire

The GoJ has enacted an amendment to the Land Acquisition Act, 2013 that dilutes the need for social impact assessment before any acquisition of land. This potentially destroys any legal safeguard of Adivasi lands and works in favour of the industrialists who have been promised ten lakh acres of land by the GoJ for setting up businesses. This is even more relevant in the current scenario, where uncultivated land (*gaer mazurwa*) has been registered under a "land bank" and the ownership of the community on such lands (*Jamabandi* title) have been cancelled.

Twenty one lakh acres of land had been announced under the "land bank" by the GoJ which has village commons going into the [land bank](#). And, this is without any consent of the gram sabha or the TAC, i.e., in violation of PESA and fifth schedule. Swamy has been a fierce critic of the enactment of such GoJ policies. He asks why the government is constantly undermining the primacy of the gram sabha. He rightfully asks, "why would the Adivasis not protest when they are constantly being pushed more to the margins, their lands are being taken away by the government and handed to large mining corporations". In response to all this, the GoJ recently filed an FIR against him with [sedition charges](#) for a social media post on Palthgadi. The allegations are unclear.

Jharkhand has also been witness to an array of [mob lynchings](#) in the past couple of years. Muslims have predominantly been the victims of such violent ghastly crimes committed by cow vigilante groups that get tacit support from some BJP leaders. As testimony to his tireless endeavours to retain the secular fabric of the country, Stan has also been closely engaged in fostering communal harmony through secular platforms like Sajha Kadam.

It is a mockery of our constitution that asking questions non-violently of government accountability and wanting the government to act constitutionally can earn trophies of "sedition". Isn't Swamy's question a mere paraphrasing of what the Supreme Court recently said, i.e., "Dissent is the safety valve of democracy... if it is not allowed, the pressure cooker

will burst” ? Isn't it a matter of shame for all of us when an ethical, octogenarian, after decades of working with the most marginalised has to publicly plead, “[Does raising questions on the rights of Adivasis make me a 'Deshdrohi'?](#)”

While people like him are treated by the State with contempt, the mob lynching accused are being garlanded by a BJP leader. The choice is ours – do we want politics of ethics and truth of the kind of Father Swamy or one of perversion and falsehood as perpetrated by the BJP?

We stand in solidarity with Father Stan Swamy.

*Written by Rajendran Narayanan, teaches at Azim Premji University, Bangalore and Debmalya a social worker in 2018.*

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Stan Swamy has been further interrogated since; his house at the outskirts of Ranchi has been raided twice first by the Maharashtra police and later by the National Investigation Agency (NIA), but he has stood fast on his position '*standing by the poor is not a crime*'.

Finally, the NIA has forcibly arrested Stan Swamy on 8 October; he has been taken to Mumbai on 9 October.

Two days before his arrest Stan Swamy spoke in front of the camera; to listen, please click the image for the video link.



The arrest of Stan Swamy is the lowest moment in India - another black page in the history of India written by the Modi government.

If you are concerned to save the country and its people, please write to: [info@india-crisis.world](mailto:info@india-crisis.world).

Please circulate <https://india-crisis.world>