DELHI HIGH COURT

STUDY GUIDE



THE BHIMA KOREGAON CASE

THE HIGH COURT

The High Court is the state's highest court of justice. It is the second-highest in the nation, right behind the Indian Supreme Court. There are currently 25 High Courts in India, each located in a separate state.

POWERS OF THE HIGH COURT

1. Court of Record:

- The judgments, proceedings, and acts of High Courts are recorded for perpetual memory and testimony.
- These records are of evidentiary value and cannot be questioned when produced before any court.
- They serve as legal precedents and references within the jurisdiction.
- High Courts have the authority to punish for contempt of court, including imprisonment or fines.

2. Original Jurisdiction:

- Original jurisdiction extends to any dispute between the Government of India and one or more States or between the Government of India and any State or States on one side and one or more States on the other or between two or more States, if and insofar as the dispute involves any question on which the existence or extent of a legal right depends and for enforcement of Fundamental Rights.

5. Appellate Jurisdiction:

- They are qualified to consider appeals from subordinate courts and tribunals, providing a way for rulings to be reviewed.

6. Power of judicial Review:

- High Courts have the power of judicial review. They have the power to declare any law or ordinance unconstitutional if it is found to be against the Indian Constitution.

BACKGROUND OF THE CASE

The Bhima Koregaon case centres on the violence that erupted during the 200th anniversary of the Battle of Bhima Koregaon on January 1, 2018, in Maharashtra, India, a significant event for Dalit soldiers who fought against the Peshwa's forces, symbolising the struggle against caste oppression.

On that day, clashes occurred between different groups, resulting in violence and the death of a young man, heightening concerns about caste-related tensions. Following the incident, several activists, scholars, and lawyers, including Sudha Bharadwaj, Varavara Rao, Gautam Navlakha, and Arun Ferreira, were detained, accused of connections to Maoist groups and inciting the violence.

They faced charges under the Unlawful Activities (Prevention) Act (UAPA), which allows severe penalties and detention without bail. The arrests sparked controversy and discussions about civil liberties and freedom of expression in India, leading to widespread protests and criticism from human rights organisations about state repression.

Legal proceedings are ongoing, reflecting larger social issues regarding caste dynamics and the government's approach to dissent. Historically, on January 1, 1818, a diverse group of soldiers from the East India Company, including Dalits, tribals, Muslims, Christians, and backward communities, defeated the Peshwa army at Koregaon, and a victory pillar, the 'Vijay Stambh', was erected as a memorial. A public meeting to commemorate this victory was planned for December 31, 2017, involving notable figures.

On January 1, 2018, a communal disturbance arose when a group of Dalits was attacked while paying respects at the pillar, leading to violent agitation across Maharashtra.

TIMELINE

Dec 31, 2017
The Elgar Parishad takes place near Pune to honour the 200th anniversary of the Battle of Bhima Koregaon, important for the Mahar Dalit community.

Jan 1, 2018
Violence occurs during the commemorations in Bhima Koregaon, resulting in one fatality.

Jan 2, 2018
An FIR is filed by Pune police against Sambhaji Bhide and Milind Ekbote for inciting violence.

Jan 8, 2018
A second FIR accuses Maoists and Kabir Kala Manch of inciting violence through their performances.

Apr 17, 2018
Police conduct searches at the homes of activists, including Rona Wilson and Sudhir Dhawale.

May 17, 2018:
The Unlawful Activities (Prevention) Act (UAPA) is applied after incriminating evidence is reportedly found.

Jun 6, 2018:
Activists Rona Wilson, Sudhir Dhawale, Surendra Gadling, and Shoma Sen are arrested.

Aug 28, 2018
Further arrests include Sudha Bharadwaj, Arun Ferreira, Vernon Gonsalves, and poet Varavara Rao.

Nov 15, 2018
The police filed a comprehensive chargesheet in the case.

Jan 24, 2020
The National Investigation Agency (NIA) takes over the case.

Apr 14, 2020
Anand Teltumbde and Gautam Navlakha surrender after the Supreme Court declines to extend their protective orders.

Jul 28, 2020
The NIA arrests Hany Babu, a professor at Delhi University.

Oct 8, 2020
The NIA arrests Father Stan Swamy, an 83-year-old activist.

Feb 22, 2021
Varavara Rao is granted medical bail by the Bombay High Court.

Jul 5, 2021
Father Stan Swamy dies while in custody.
Dec 1, 2021
Sudha Bharadwaj is released on bail.
Nov 10, 2022
Gautam Navlakha is placed under house arrest by the Supreme Court.
Nov 18, 2022
Anand Teltumbde is granted bail.
Dec 19, 2023
Gautam Navlakha is granted bail by the High Court.
Apr 17, 2024
Shoma Sen is released after receiving bail from the Supreme Court.

LAWS IN QUESTION

1. Unlawful Activities (Prevention) Act (UAPA), 1967

- The UAPA was originally enacted to prevent unlawful activities and associations that threaten the integrity and sovereignty of India.
- UAPA allows for prolonged detention of individuals without formal charges.
- The law allows the state to detain individuals based on suspicion, often using circumstantial or indirect evidence, which has raised concerns about abuse.

2. Indian Penal Code (IPC)

The Indian Penal Code is the official criminal code of the Republic of India. It is a complete code intended to cover all aspects of criminal law.

3. Arms Act, 1959

The Indian government's 1959 Arms Act governs the import, use, transfer, sale, and possession of firearms and ammunition in India. The Act's main goals are ensuring public safety and limiting the spread of weapons throughout the nation.

PARTIES INVOLVED

- Sudha Bharadwaj- Sudha Bharadwaj, a civil rights lawyer and trade union activist, was accused of being involved in Maoist activities and of plotting against the state. She was arrested for allegedly providing legal aid to Naxalite groups and facilitating their activities.
- Anand Teltumbde-Anand Teltumbde, an academic and scholar of caste studies, was accused of being linked to Maoist groups and of involvement in organising the Elgar Parishad event that allegedly led to the Bhima Koregaon violence.
- Vernon Gonsalves- Father Stan Swamy, a Jesuit priest and activist who worked for the rights of tribal communities, was accused of being involved in Maoist activities and of being part of the conspiracy related to the Bhima Koregaon violence
- Arun Ferreira-Ferreira, a lawyer, was accused of inciting caste-based violence through speeches on December 31, 2017, that resulted in violent clashes in Bhima Koregaon and neighbouring villages in Maharashtra.
- Varavara Rao - Varavara Rao, a well-known poet and intellectual, was accused of being a key figure in the Maoist movement and of participating in a plot to assassinate Prime Minister Narendra Modi.
- Shoma Sen- Shoma Sen, a former head of the English department at Nagpur University, was arrested for her alleged involvement in the Maoist conspiracy.
- Rona Wilson- Rona Wilson, a public intellectual and activist, was accused of having links to Maoist insurgents and being part of the larger plot that involved incitement to violence at Bhima Koregaon.
- Stan Swamy-Father Stan Swamy, a Jesuit priest and activist who worked for the rights of tribal communities, was accused of being involved in Maoist activities and of being part of the conspiracy related to the Bhima Koregaon violence.
- Gautam Navlakha-Navlakha,a human rights activist and journalist, was arrested in 2020 by the NIA for his alleged role in the 2018 Bhima Koregaon case.
- Surendra Gadling- Gadling, a human rights lawyer, was accused of providing legal assistance to Maoist groups and being involved in their activities. He was also linked to the Bhima Koregaon violence.

KEY FACTS

- The Bhima Koregaon lawsuit began on January 1, 2018, which was also the day of the battle's 200th anniversary commemoration. Violence during the festivities left one person dead and numerous more injured.

- Police investigation into the incident led to the arrest of several activists who they alleged had "Maoist links". The police alleged that they funded the Elgar Parishad meeting on December 31, 2017, where inflammatory speeches were made, according to police, leading to the violence. Those arrested on August 28, 2019, included writer and poet Varavara Rao, lawyer and activist Sudha Bhardwaj, academic and activist Vernon Gonsalves, and human rights activists Arun Ferreira and Gautam Navlakha.

ARGUMENTS IN FAVOUR OF THE DEFENDANT

- **1. Violation of Human Rights:** Critics argue that the arrests infringe upon fundamental rights, including freedom of speech and expression, claiming that dissenting opinions should not be criminalised.

- **2. Insufficient Evidence:** Opponents assert that the evidence against the arrested activists is weak and based on questionable sources, calling into question the legitimacy of the UAPA charges.

- **3. Targeting Dissent:** Many believe that the case exemplifies a broader trend of the Indian government suppressing dissent and targeting activists advocating for marginalised communities, particularly Dalits.

- **4. Political Motivations:** Some claim the arrests are politically driven, intended to silence critics of the government rather than genuinely address security issues.

- **5. Impact on Civil Society:** Critics warn that the case sends a chilling message to civil society, deterring activism and discourse on important social matters, ultimately undermining democracy.

ARGUMENTS IN FAVOUR OF THE PLAINTIFF

1. National Security: Proponents argue that the arrests were essential to prevent the spread of Maoist ideology and associated violence, asserting that the accused had ties to extremist groups that pose a threat to national security.

2. Rule of Law: Supporters contend that the arrests reinforce the rule of law by holding individuals accountable for actions that allegedly incite violence, claiming that invoking the UAPA is warranted when dealing with those connected to terrorist organisations.

3. Public Safety: There is a belief that detaining those who incite violence is necessary for maintaining public order and safety, particularly in an area sensitive to caste-related tensions.

4. Seditious Content: The state has argued that the defendants, through their speeches, writings, and social media posts, promoted violence and hatred against the government and the Indian state. They have claimed that the content of these materials was aimed at inciting an armed rebellion.

5. Link to Violence: The state has connected the defendants' activities to the Bhima Koregaon violence, which took place on January 1, 2018. They have alleged that the defendants' speeches and writings were instrumental in creating a climate of tension and hatred that ultimately led to the violence.

6. Conspiracy: The state has accused the defendants of being part of a larger conspiracy to overthrow the government. They have claimed that the defendants were in contact with anti-national elements and were working to destabilise the country.

THOUGHT PROVOKING QUESTIONS:

1. Motivations Behind Arrests: What do you think motivated the government to arrest activists involved in the Elgar Parishad? How does this reflect on the current political climate in India?

2. Role of the Judiciary: How has the Indian judiciary responded to the Bhima Koregaon case? Do you believe it has upheld justice, or has it contributed to the suppression of dissent?

3. Narrative Construction: How did the police narrative linking activists to a plot against Prime Minister Modi impact public opinion? What does this say about the power of narrative in shaping political discourse?

4. Media Responsibility: In what ways did media coverage influence the perception of the Elgar Parishad and the subsequent arrests? Were there any instances of biassed reporting?

5. Activism and Identity: How does the Bhima Koregaon case highlight the intersection of caste identity and activism? In what ways are Dalit voices marginalised in this context?

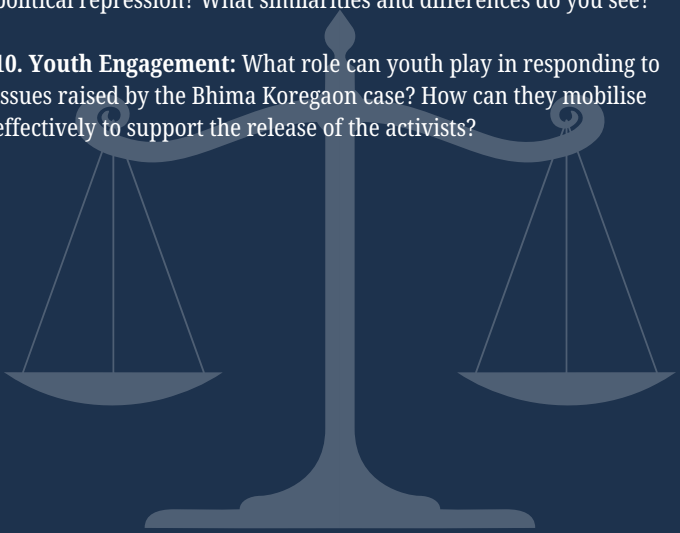
6. Impact of the UAPA: What are your thoughts on the use of the Unlawful Activities (Prevention) Act in this case? How does it affect the rights of activists and the definition of dissent?

7. Commemoration and Resistance: Why is the commemoration of the Battle of Bhima Koregaon significant for contemporary social movements? How does it serve as a symbol of resistance against oppression?

8. Long-Term Consequences: What long-term effects do you think the Bhima Koregaon case will have on future activism in India? Will it inspire more people to engage in social justice, or will it deter them?

9. Comparative Analysis: How does the treatment of the activists in the Bhima Koregaon case compare to other global instances of political repression? What similarities and differences do you see?

10. Youth Engagement: What role can youth play in responding to issues raised by the Bhima Koregaon case? How can they mobilise effectively to support the release of the activists?



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why this is important
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