

Democracy and Its Inconvenient Questions

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The case of the local people's grievance against the mining of iron ore for the Bhilai steel plant from Rowghat in the reserved forest area of Chhattisgarh, a Fifth Schedule Area, is just one more example of the infringement of constitutional rights and guarantees. It also portends what is to come with the polity poised to take a decisive right-wing turn.

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We, the people as a nation, constituted ourselves as a sovereign democratic republic to conduct our affairs within the four corners of the Constitution, its goals and values. We expect the benefits of democratic participation to flow to us – all of us – so that we can take our rightful place in the league of nations, befitting our heritage and collective genius. Consequently, we must also bear the discipline, and the rigour of constitutionalism, the essence of which is accountability of power, whereby the power of the people vested in any organ of the State, and its agents, can only be used for promotion of constitutional values and vision.” So begins the iconic judgment of the Supreme Court in writ petition (civil) no(s) 250, popularly known as the Salwa Judum petition. Filed against the state of

Chhattisgarh in 2007, the petitioners Nandini Sundar, Ramchandra Guha, and E A S Sarma, a senior retired IAS officer, had

alleged *inter alia*, widespread violation of human rights of the people of Dantewada District, and its neighboring areas in the State of Chhattisgarh, on account of the on-going armed Maoist/Naxalite insurgency, and the counter-insurgency offensives launched by the Government of Chhattisgarh. In this regard, it was also alleged that the State of Chhattisgarh was actively promoting the activities of a group called ‘Salwa Judum’ which was in fact an armed civilian vigilante group, thereby further exacerbating the on-going struggle, and was leading to further widespread violation of human rights.¹

The attempt by the Chhattisgarh police to frame one of the petitioners as having alleged links to the Maoists in the state needs to be understood against the backdrop of the petition and the judgment. The contempt case against the Chhattisgarh government for not following any of the Supreme Court's orders is awaiting a hearing. It also portends what is to come in the time of flailing neo-liberal policies and slowing growth, with the polity poised to take a decisive right-wing turn. Such attempts also raise

serious questions about a fundamental disregard for constitutional guarantees, human rights and democratic values. All the three, incidentally, are woven into the imagination of the republic as it was conceived when the Constitution itself was first discussed and framed. In this article, we illustrate the deeper, immediate and wider context for the latest disturbing turn of events.

Contextualising the Protagonists

The background to the petition was provided by the fact-finding reports on the events that were unleashed in Chhattisgarh, post the launch of Salwa Judum. One of the reports was prepared by the petitioners themselves under the aegis of the Independent Citizens' Initiative titled *War in the Heart of India*. We need to clearly understand the context not just from the perspective of this report, but also from that of the other equally important reports prepared independently, preceding or succeeding the report done by the petitioners.

One such was the Planning Commission report of 2008. In an evocative narration, the *Report of the Expert Committee on Developmental Challenges* stated

Encouragement of vigilante groups such as Salwa Judum and herding of hapless tribals in make-shift camps with dismal living conditions, removed from their habitat and deprived of livelihood as a strategy to counter the influence of the radical Left, is not desirable. It delegitimises politics, dehumanises people, degenerates those engaged in their 'security', and above all represents abdication of the State itself.²

This stance was anticipated by the National Commission for the Protection of Child Rights, with its fact-finding mission report of 2007 (that included Shanta Sinha, J M Lyngdoh and Venkat Reddy) stating that "many people shared accounts of family members being killed and women having been raped by the Salwa Judum". The National Human Rights Commission, too, in its report completed in 2008 accepted that atrocities were committed by the Salwa Judum.

It is perhaps pertinent to note that anthropological research requires a close engagement with the cultures and people it attempts to understand.³ Researchers have for decades engaged with not just

the communities but also with the issues that have infringed on their constitutional rights and guarantees (as the context of engagement is shaped not just by culture but by issues of justice). We cite one such case of infringement, of the many that have been documented, to further illustrate the point. This infringement concerns the Bhilai steel plant and peoples' grievances against the proposed mining of iron ore for it, a public sector undertaking, at Rowghat, located in the Matla Reserved Forest Area of Kanker and Bastar districts of Chhattisgarh, a Fifth Schedule Area.

This is what the official environmental impact assessment (EIA) report of 2006⁴ for this project has to say about its fallout, and as a presumably impartial document, we shall quote from it extensively. Justifying the location of the project in forest areas, it begins by saying that

the availability of iron ore in non-reserve forest areas *within an economic radius of BSP* (emphasis ours) has been studied by GSI, IBM, State Government and SAIL and the best future resource to meet the requirement of BSP is Rowghat, which happens to be in the forest.

Moreover, the proposed site for the mining activity is described as,

The Landuse/Landcover classification indicates 78.69% dense forest cover, 17.43% wasteland, 2.22% agriculture land, and 1.66% cover waterbody, including river, reservoir and ponds. Most of the study area is covered with forest, comprised of dense forest, mixed jungle and open mixed jungle (ibid: 2.52).

Therefore, the economic feasibility for an individual steel plant clearly takes precedence over any collective concerns over forest preservation.

Describing the process of iron ore extraction, the EIA says that the deposits at Rowghat are to be exploited by

open cast mining method with Shovel-Dumper combination. Considerable amount of waste overlying the iron ore as well as intercalations (rejects) will need to also be excavated during the course of mining for which sufficient space will be required for dumping. The entire mineralised area of about 678.63 hectares needs to be excavated to win the ore. Additional area may also be required depending on the configuration of the ore body (ibid: 1.4).

In terms of activity spread, "It is envisaged to locate the foot-hill complex

(industrial area) in the adjacent protected forest land" (ibid: 1.5), with crushing plants "on the hilltop/slope of the ranges", with "secondary crushed product from these units to be taken to the screening plant through downhill conveyors of adequate capacity (ibid: 1.6).

In terms of the ecological characteristics of the proposed site,

The study area having 314 km² area is only .23% of the total geographical area of the state but harbours 13.26% of the floral elements (angiosperms only) of the state (ibid: 2.98).

It adds

This team feels the need to conserve an almost well stabilised forest ecosystem which can act as a gene pool reserve for the future days to come (ibid: 2.99).

As has been mentioned earlier, the rapid survey in and around forests of Rowghat house 104 tree species (ibid: 2.100).

Such a contiguous habitat [of the Rowghat ridge] with a mosaic structure tree composition is a suitable habitat for a wide range of wild life (ibid: 2.101).⁵

Presence of such a large number of endangered, rare and indeterminate plant species included in the Red List of India makes the whole ecosystem of Rowghat forest 'fragile' (emphasis in original). It can be confidently assumed that if this ecosystem is opened to indiscriminate human access these species of rare occurrence would become totally extinct from this location in near future. The present level of human access has not proved to be detrimental to the species stated above. But a large-scale access in the form of mining will surely bring about a devastating change in the habitat of these species (ibid: 2.106).

Talking about the project and the forest, EIA states,

In the three profiles taken on the top of the hill where two OB (over burden) dumps have been proposed, the canopy is observed to be open in all the three cases...dumping of over burden material in both these cases ...will surely have damaging effects on the vegetation in the valley and the drainage pattern of the western and southern parts with devastating effect on the ecosystem as a whole and the biodiversity of western valley in particular (ibid: 2.103).

On the reclamation of degraded land used for over-burden dumps in the proposed mining area, the EIA states,

the degraded mined out land and over burden dumps need to be stabilized by developing plantations through eco restoration measures. No such measures are available in the area as it is a proposed mine (ibid: 2.103).

As for regeneration of forests, future existence of woody flora depends on the conservation

and sustainable utilisation of the few remnants of natural forests of East Deccan like Rowghat (ibid: 2.103).

Finally, the report recognises “The forests of Rowghat are the home for a wide diversity of tribes of ancient origin” (p 2.178), primarily subgroups of the Gonds. Verrier Elwin has written about these communities and about the sacredness of the Rowghat hill in particular for many among them. The EIA report summarises its “salient observations” of the 19 villages it covered:

Most of the people are not aware about the proposed project. Literacy level amongst the people is very poor. Education facility is very poor. Communication and transportation facility are also poor. Condition of the roads is very bad. Respondents have also reported very poor medical facility (ibid: 2.181-2.182).

Allowing for the EIA process and report being of a high quality and integrity (challenged by many, like the activists protesting against the Posco steel and the Vendanta aluminium projects),⁶ it is clear from all the above cited excerpts that there are many serious grounds – not least the extinction of both endangered and rare plant and wildlife species, as well as vulnerable tribal communities – on which the proposed iron ore mining project in the Rowghat area ought to be resisted.

Yet, the local people and others who are raising their voices against mining activities, in Rowghat and elsewhere, or against the fig leaf of getting the gram sabha’s consent, are being labelled as anti-nationalists. The mockery being made of this requirement under the Forest Rights Act (FRA) and Panchayat (Extension to Scheduled Areas) Act (PESA) in the Fifth Schedule Areas should prompt more protests from all democratic and concerned citizens. As the minister for rural development, Jairam Ramesh notes,

I don’t think that we should get into a mad scramble to clear projects and give a go-by to the Environment (Protection) Act and the Forest (Conservation) Act. If a government finds these Acts obstructionist, then it should just say, ‘Sorry, we are declaring a law holiday as far as these two laws are concerned and for the next ten years, we are going to have click-free clearances.’ But we have them on the statue books. We passed

these laws with a noble intent and we should not be bypassing them (*Frontline*, 21 February 2014, p 8).

The Wider Context

The Supreme Court observed in the Salwa Judum case:

Predatory forms of capitalism, supported and promoted by the state in direct contravention of constitutional norms and values, often take deep roots around the extractive industries. In India too, we find a great frequency of occurrence of more volatile incidents of social unrest, historically, and in the present, in resource rich regions, which paradoxically also suffer from low levels of human development. The argument that such a development paradigm is necessary, and its consequences inevitable, is untenable.

This statement comes not from a political pamphlet but from the highest court in the land.

We live in uncertain times. Prime Minister Manmohan Singh observed that

there has been a systemic failure in giving tribals a stake in the modern economic processes that inexorably intrude into their living spaces...The systematic exploitation and social and economic abuse of our tribal communities can no longer be tolerated.

He further added,

We cannot have equitable growth without guaranteeing the legitimate rights of these marginalised and isolated sections of our society. In a broader sense we need to empower our tribal communities with the means to determine their own destinies, their livelihood, their security and above all their dignity and self-respect as equal citizens of our country, as equal participants in the processes of social and economic development.⁷

However these lofty sentiments have only partially been translated into policy

that would directly empower the tribal communities. The situation on the ground in many parts of central India remains confused and contrary.

On the legislation front, while some headway has been made, it is not complete. It has been pointed out, for instance, that while PESA – empowering the tribal communities to take charge of resources – has been centrally enacted (that too only for tribal communities living in Fifth Schedule Areas), the necessary enabling rules for the gram sabha’s control over minor minerals, water bodies, control and management of minor forest produce, prevention of land alienation, etc, and the community transfer of the forest as envisaged in the FRA are not yet in place in a manner that would honour this vaulted principle of empowerment. While such an impasse exists in the legislative context, the situation on the ground has become complicated. The dominant paradigm of the neo-liberal reforms of the last few decades is resource extraction, principally of minerals, land and water. The centralising aspect of the economic reforms have centred on their exploitation in order to push up growth rates, while at the same time the decentralising tendencies in the polity have pushed for devolution of power and authority to the third tier of governance. The failure of the second and the success of the first have created an explosive situation on ground.

The tribal communities have been at the receiving end of this growth-centric approach, where they have contributed disproportionately more, and received disproportionately less, from it. This has



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been accompanied by, amongst other things, a gradual withdrawal of the state from its welfare doctrine and a rise of the service provider approach, where market forces are supposed to play a developmental role. In this mêlée, the people are often invisible, more so in the tribal areas where most of the country's mineral resources are to be found. So in a true sense, it is they who face the "resource curse". The situation becomes much more complicated with insurgency taking roots in many parts of the Fifth Schedule Areas. On one hand is the inexorable force of the market, which is gaining ground as the state supports it in its pursuit of growth for growth's sake, and on the other, is the insurgency movement that rejects the Constitution

and advocates a violent overthrow of the system. The people in the area are often caught in the pincer between the two, as access to justice and avenues of opportunity gets blocked. What should the people do? What is the duty of the state towards its people in a democracy? Should not – as has been so powerfully argued – the minerals be left in the mountain and water in the river? Should not people be able to pose the question "why", without the threat of a violent response from actors on ground and the fear of being framed for upholding the principles inscribed in the Constitution? Should we not aim at becoming a just and fair democracy? Is it still not within us to dream with our eyes open and not worry about our backs?

NOTES

- 1 Supreme Court Order on Writ Petition (Civil) No(s) 250 of 2007, p 19.
- 2 Report of an Expert Group to Planning Commission, Government of India, New Delhi, April 2008.
- 3 *Inter alia, Subalterns and Sovereigns: An Anthropological History of Bastar (1854-2006)* (Sundar 2008), a work that weaves in the intricate complexities of the tribal encounter with the world outside in the colonial times.
- 4 *Rapid Environmental Impact Assessment for Mining and Infrastructural Facilities at Rowghat, Bastar District, Chhattisgarh* (Sponsors: Steel Authority of India and Bhilai Steel Plant, Bhilai, Chhattisgarh; study conducted by the National Environmental Engineering Research Institute), September 2006.
- 5 The report admits that "There are 4 National Parks and 10 Wildlife Sanctuaries in Chhattisgarh State that provides habitat to fauna in this region. However, these are not present within 15km radius area around the Rowghat Mining Lease (ibid: 2.106).
- 6 See *Frontline*, 21 February 2014, cover story, titled: "License to Plunder".
- 7 Prime Minister Manmohan Singh, 2009.