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India

Fire on the Mountain - Even as State Repression increases, Indigenous People's voice to claim their rights resounds

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The Supreme Court of India in a landmark judgment (Criminal Appeal No: 11 of 2011) observes: "The injustice done to the tribal people of India is a shameful chapter in our country's history. The tribals were called `rakshas' (demons), `asuras', and what not. They were slaughtered in large numbers, and the survivors and their descendants were degraded, humiliated, and all kinds of atrocities inflicted on them for centuries. They were deprived of their lands, and pushed into forests and hills where they eke out a miserable existence of poverty, illiteracy, disease, etc. And now efforts are being made by some people to deprive them even of their forest and hill land where they are living, and the forest produce on which they survive." [section 36].

Law vs People

Realizing this injustice, the British rulers introduced some legislations in view of protecting the tribal people and their rights over natural resources. Chotanagpur Tenancy Act, 1908 (CNT) and Santal Pargana Tenancy Act, 1949 (SPT). These laws were meant to prevent land-alienation of the indigenous Adivasi community. However, over the years some loopholes were made especially in CNT Act through which indigenous land can be taken for public sector undertakings such as mines and industries.

Under this guise thousands of acres of land has been forcibly taken using the outdated Land Acquisition Act of 1894 enacted by the British. The compensation fixed by petty bureaucrats was meager without any rehabilitation of the displaced. A minimal estimate is about 24 lakh acres of land alienated and 19 lakh people displaced. Further push came in with Liberalisation Policy adopted from early 1990s paving way for private industrialists to invest in mining and industries.

Memorandums of Underakings on paper only

Even as the govt went on signing Memorandums of Underakings with prospective industrialists, people's resistance movements began to emerge. Consequently very few industrialists could set up their industries leading to an industrial deadlock and most of them had to go back empty handed. Big projects such as Neterhat Field Firing Range, Koel-Karo River-Water Project, Arcelor-Mittal project where people's resolve not to give their land are some of the success stories of people's resistance. It was in such a predicament that UPA govt enacted the 'Land Acquisition Act, 2013' by which better compensation and rehabilitation was offered.

Some significant features are: (1) compensation amount enhanced to four times the market rate, (2) obtaining environment clearance for the industry/mine, (3) obligatory public hearings wherein the consent of 80% for private industries and 70% for public sector industries, (4) social audit by independent expert group to assess the economic, social, cultural impact on the communities because of the industry/mine functioning in their midst. Only on the satisfactory fulfillment of the above conditions, industries/mines would be given the go-ahead signal.

Mass protests overwhelm Ordinance of NDA govt to scrap the salient features of the 2013 Land Acquisition Act. This was a desperate attempt to salvage the assurances the govt had made to industrialists that they would face no problems in setting up industries. This arrogant action of the govt aroused the intellectuals, farmers associations,

working class, dalit and adivasi communities to take to the street at local, regional, national levels and denounce the duplicity of the NDA govt. This determined protest by the masses finally brought the govt on its knees and forced it to withdraw the much hated Ordinance.

Shifting the burden of dismantling the 2013 Land Acquisition Act to State Govts, the NDA govt asked the States to enact their own laws / ordinances / amendments so that the corporates can easily acquire land and start their industries and mines. Now that Jharkhand Govt is a BJP govt and has been faithfully carrying out the dictates of the national NDA govt worked out the sinister plan of passing an Ordinance which sought to tamper with the CNT & SPT Acts. This Ordinance was passed by the State Cabinet just a few days before the commencement of the State Assembly on 28th July 2016. It should rather have been placed in the Assembly, but the govt knew it would be difficult to get it through since the opposition would oppose it vehemently. Sad but true, the State Governor signed it and forwarded it to the President of India for his approval after which it would become a law. Happily, the President had the discretionary sense to forward it to the Central Govt and the National Commission for Scheduled Tribes and asked for their comments. While the central govt has been silent on the matter, the ST Commission responded saying it would be highly unconstitutional to pass such an ordinance. Nearly five months have passed and the President has not given his approval. This placed the NDA govt at the centre and the state govt in Jharkhand in an awkward situation where their plot against the indigenous people could not materialize.

Ordinance becomes Amendment

Jharkhand Govt's proposed Amendments to CNT & SPT Acts are a scapegoat to hide its real intent of duping the indigenous community that the above Acts are good and will be preserved but with a few amendments which will open a new path to development! But sufficient awakening is taking place among the affected people and they will no longer be fooled.

Where attendance register becomes 'consent' document!: Sensing the predicament of the govt, indigenous parties, organizations and movements demanded the Vth Schedule of the Constitution be observed in letter and spirit and that govt's proposed amendments should get the approval of Tribes Advisory Council (TAC) before presenting them on the floor of the Assembly. The govt wishing to give the impression that it abides by the constitutional requirements convened a formal meeting of the TAC in September 2016 but the anomaly was the Chief Minister who is not even a tribal made himself the chairman and conducted the meet. Laughable but true, the attendance register was taken as the consent document and the general public was informed through the ever obliging media that the resolution of the govt had been passed by the TAC!

A three-minute miracle! Opposition to the proposed Amendments to CNT & SPT Acts became voluminous on the part of indigenous mass movements and opposition political parties. Rallies, public meetings against the amendments became the order of the day. Opposition parties assured the people that they would not allow the bill to be passed in the State Assembly. Both the ruling party and the opposition parties were geared up for the battle and an obvious tension prevailed all over the state. When the State Assembly gathered, the opposition parties members were up on their feet and demanded that the bill be discussed first before any attempt to pass it. An uproar prevailed and then lo and behold it was announced that the Bill has been passed by a voice vote! All this took place in a matter of three minutes!

It is NOT agricultural land for non-agricultural purpose... BUT snatching indigenous land for out-sider industrialists. What are the objectionable elements in the proposed amendments? (1) Article 49 allowed transfer of indigenous land only to industry and mining. The proposed amendment will open the door to creating infrastructure, rail lines, colleges, hospitals, transmission lines etc. etc. in fact for any and every thing. (2) Article 21 restricted the use of agricultural land only for agricultural purpose. In other words, agricultural land cannot be changed to non-agricultural

business purposes. The proposed amendment will allow any and every non-agricultural use.

It is important to keep in mind that whatever agricultural land is still in possession of the indigenous community, has been possible because of Article 21 of CNT and Article 13 of SPT Act. So if the amendments will become a law, no land will be left with indigenous communities. Frightening reality indeed!

This plot of the capitalist ruling class against the Indigenous Peoples must be resisted at all costs. If we fail in this struggle, Indigenous Communities will be wiped out in the map of central India.