

Expropriation in the name of conservation

It is shocking that a democratic government is seeking to strengthen the colonial-era Indian Forest Act



AVI SINGH & PEEYUSH BHATIA

The Indian Forest Act, 1927 was a remarkable piece of expropriation in the name of conservation. The British government carried out one of the largest land expropriations in history, where the rights to occupy and use forests were transferred from communities with customary and historical property rights to the colonial Central government. The act offered a fig leaf that those who could establish their rights were excepted from this expropriation (of course, few could establish their rights, given that their rights were not property rights as per the British government’s conception of property). These expropriations were ameliorated in some small measure in the Forest Rights Act of 2006, but they have remained the edifice of the relationship between the government and the Adivasis. It is the forest department that Adivasis must deal with as their primary government agency. That a democratic government almost a century later seeks to expand and strengthen the tools of the Indian Forest Act is remarkable and shocking at the same time.

The ostensible inspiration for the amendments proposed by the Central government is the same as that of the colonial regime: the protection of forests. However, the government goes a step further than the colonial government and seeks to criminalise the communities, primarily the Adivasis, who dwell in these forests. Forest rights activists have expressed concern that forests could turn into a ‘police state’. A better description would be that they would become a more draconian police state.

Proposed amendments

According to the draft amendments, the forest department will now be able to enforce the property rights of the government to forests at the exclusion of Adivasis dwelling there, through preventive arrest provisions. Certain offences will be made non-bailable. The presumption of innocence is reversed. Alleged encroach-



“The proposed amendments to the Indian Forest Act seek to turn communities into the problem.” Kand tribal women in Odisha. • ASHISH KOTHARI

ers can be arrested without warrant. Forest officials will be given the authority to use arms against tribals for “violation of laws”.

The draft says the ‘forest’ will not be limited to land owned by the government; it will include any flora considered forest, as a 1996 Supreme Court order had expanded the definition of forest. The Central government will be able to change the classification from ‘unprotected’ to ‘reserved’ or ‘protected’, and the erstwhile land owners will be subjected to penal provisions for customary use of their land.

The fears of a draconian police state are not alarmist. The criminal justice system in States such as Chhattisgarh is inundated with cases against Adivasis who exercise their forest rights. Yet, the amendments proposed seek to limit the discretion of officers to withdraw any offences, ensuring a protracted legal process, with prolonged incarceration.

It is an old adage that those who forget history are bound to repeat it. As a young editor in Germany, Karl Marx was radicalised by the use of penal provisions to prosecute people collecting firewood in the forests, an old custom. With increasing industrialisation, feudal property owners could monetise the firewood, and the customary rights of people to collect firewood was curtailed. Marx was incensed at the plight of those jailed for this infraction, which accounted for the majority of penal cases in the prosperous Rhineland.

The Forest Rights Act, a legislation mitigating the Indian Forest Act, already weakened by poor implementation, will be further limited by excluding ‘village forests’, ironically named, from its purview. In addition, the community’s voice will also be excluded from a new category of ‘production forest’. ‘Production forest’ may be handed over to private operators. This will corporatise forest resources. The problems with these provisions are self-evident.

A Section 26 has been proposed, which will allow forest department officers to suspend the right to pasture or collect forest produce from the primarily Adivasi communities residing in the forest. This will take away not only the livelihood of the forest dwellers, but also strike at the very root of their deep relationship with their environment, customs and traditions. The proposed Section 22(A)(2) is another example of gross injustice. It proposes that the government can acquire any right of a person which is “inconsistent with the conservation of the proposed reserved forest”. No parameters have been given to decide what is “inconsistent”, and the decision to declare the “inconsistent” use rests with the government.

States with large forest tracts with big tribal populations have tried in the past to settle forest land “encroached” by the tribal people and grant them pattas. The Forest Rights Act allows tribals present at the cut-off date, and non-tribals who can

show 75 years of possession, a quasi-property right, or patta, to be administered by the Tribal Affairs Ministry rather than the forest department. Activists expected that this proposed amendment would bring in legal provisions for such settlement. This so-called forest land has no trees on the ground, and has been cultivated by the tribals for a long time, but is still designated as forest. People are subjected to harassment year after year because they are treated as encroachers. The Chhattisgarh government had granted pattas to these “encroachers” to give them legal status, but recently the courts have cancelled these pattas, calling them illegal. It was expected that the proposed amendments would legalise these pattas, but the amendments proposed suggest the opposite.

Managing forests

It is not only activists who are voicing their concerns; the Chhattisgarh government has expressed its concern at the taking away of the powers given to gram sabhas through the Provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996.

The amendments will also further centralise the management of forest, as the legislation takes away the State governments’ discretion to manage forests even further.

Given the correlation between Adivasi forest areas and the ‘Red Corridor’, the law is not only undemocratic, but also has implications for internal security. Adivasis are at the front line of the battle against Maoists, and the principal victims of war-waging in their communities. This Act, in seeking to criminalise their very economic existence, will be a boon for Maoist propaganda.

The proposed legislation seeks to turn communities into the problem. To paraphrase Justice Ruth Bader Ginsburg of the U.S. Supreme Court, the Adivasis, at the very least, need the Indian state to take its foot off their neck. In these elections, Adivasis and other communities would do well to ask those seeking their blessings their stance on the proposed amendments.

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FROM THE READERS’ EDITOR

Internal resolve trumps external threats

What propels journalists to carry on with their job



A.S. PANNEERSELVAN

Last week, India dropped two places to rank 140 out of 180 countries on the Reporters Without Borders’ press freedom index. The report says that the lead up to the ongoing Lok Sabha election was a particularly dangerous time for journalists in India. It observes that violence against journalists – police violence, attacks by Maoist fighters, and reprisals by criminal groups or corrupt politicians – is one of the most striking characteristics of the current state of press freedom in India. It points out how criminal prosecutions are often used to gag journalists critical of the authorities, with some prosecutors invoking Section 124A of the Indian Penal Code under which seditious is punishable by life imprisonment. It rightly concludes that the mere threat of such a prosecution encourages self-censorship.

The spirit of reporters

The external environment is definitely hostile to free speech and good journalism. But journalists seem to be defiant of this hostility, as seen in the rush to seek admission to journalism schools and in the number of software professionals who switch careers to journalism. The idea of a public sphere and engagement with the common good has never wavered within the profession. Discussions among journalists are often about how to improve the quality of investigations, make methodologies more rigorous, and improve the style of communication. The external ecology fails to dampen the spirit of many reporters. What propels journalists to carry on with their mission?

Among the various tasks of being a journalist, the act of bearing witness brings in an element of empathy to the profession. Poet and journalist Kwame Dawes has documented for the Nieman Reports the interview roles he experienced as a witness – as a poet and as a journalist. Reflecting on his extensive work in Haiti, Mr. Dawes says his poems came from “grace moments” – moments of silence and seeming insignificance. He sees a difference between trying to understand in-

tellectually and witnessing emotionally events unfolding before one’s eye. “I stand as a witness to the silences – to what goes unspoken and ignored – to the things that float away as if insubstantial but that are filled with the simple breaths of people trying to make sense of their existence. This act of witnessing allows us to reach to other levels of meaning that can only be reached through the poem,” he writes.

Reyhan Harmanci, editor at First Look Media, poses an important question: “Bear witness – but then what?” She argues for a framework where there are possibilities for calls to action, or at least discussion, that give meaning to the reams of primary documents. Roger Cohen of *The New York Times* asserts that “to bear witness means being there – and that’s not free.” He writes: “No search engine gives you the smell of a crime, the tremor in the air, the eyes that smolder, or the cadence of a scream. No news aggregator tells of the ravaged city exhaling in the dusk, nor summons the defiant cries that rise into the night. No miracle of technology renders the lip-drying taste of fear. No algorithm captures the hush of dignity, nor evokes the adrenalin rush of courage coalescing, nor traces the fresh raw line of a welt.”

Bearing witness

P.V. Srividya’s investigation into booth capturing, multiple voting and threats in a Pattali Makkal Katchi-dominated area called Nathamedu in Tamil Nadu vindicates all that is written about journalists being effective witnesses. The report, “Nathamedu makes a mockery of democracy” (April 19), captured the underbelly of the election process: deliberate fixing of the camera to avoid the voting compartment; capturing of the voting compartment; multiple voting; voting with no voter IDs and only booth slips; and open threats to the polling staff. The report had its effect. The Election Commission has sought a report on electoral malpractices, including booth capturing, in Nathamedu, which falls under the Dharmapuri parliamentary constituency, which incidentally recorded the highest turnout in the Lok Sabha election in the State. As long as journalism helps empower the general public with facts, no amount of external threat will rob its inherent agency to be an active witness.

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SINGLE FILE

Doordarshan’s partiality

The committee that reviews political speeches should not only claim to be fair, but be seen as fair

BINOY VISWAM



The Election Commission (EC) allots telecast and broadcast time to political parties for carrying out their election campaign on Doordarshan and All India Radio during elections. I had submitted my speech to Doordarshan for vetting sufficiently in advance. It was only when I reached the office to record my speech that I was told that a paragraph of the speech referring to the nexus between the RSS and the NDA would have to be revised, apparently because it was “criticism based on unverifiable allegations”. As this censoring of speech is against the basic tenets of democracy, I decided not to record my speech.

According to the order passed by the EC while allotting broadcast time to political parties on Doordarshan, the following should be avoided in speeches: criticism of other countries; attack on religions/communities; anything obscene or defamatory; incitement of violence; aspersions against the President or the judiciary; anything amounting to contempt of court; anything affecting the sovereignty, unity and integrity of the country; and criticism by names of persons. It is clear that the paragraph that was deemed objectionable was not covered under any of these grounds, nor was it based on unverifiable allegations – it is a fact that the ideological parent of the NDA is the RSS. It is also well documented that the RSS drew its basic ideology from fascist regimes. My intention was to show that the exclusionary actions of the NDA are based on its ideological roots.

Section 12(2)(b) of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 puts the onus on the broadcaster to safeguard citizens’ right to be informed freely, truthfully and objectively on all matters of public interest, and to present a fair and balanced flow of information including contrasting views without advocating any opinion or ideology of its own. It is not enough to claim that the committee that reviewed the speech is an independent body; it must also be seen to be impartial.

This is not the first time that Doordarshan has been informed of its biased approach in favour of the ruling regime. In April, the EC took note of its disproportionate coverage of different political parties. For a month after elections were announced, the BJP got 160 hours of coverage; the Congress, 60 hours; and the CPI(M), eight. Doordarshan has already flouted a guideline of the EC which states that it should provide fair and balanced coverage of campaigning. The EC told Doordarshan to “desist from extending any preferential or disproportionate airtime coverage in favour of any party” and sought a reply for acting “not in accordance with the principle of maintaining neutrality and level-playing field”. The EC is tasked with ensuring a level playing field for all parties. One hopes that it will take note of this violation of the freedom to talk about issues plaguing the country.

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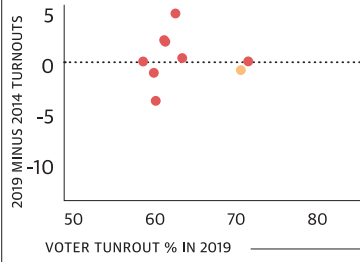
DATA POINT

A fractionally lower turnout

Voter turnout in 54% of the 95 seats in the second phase of this general election was lower than in 2014, according to provisional data released by the Election Commission. The overall turnout in these seats was 69.13%, compared to 69.56% in 2014. The graphs capture variations in turnout across regions. Seats above the horizontal zero line registered a better turnout in 2019 compared to 2014. By **The Hindu Data Team**

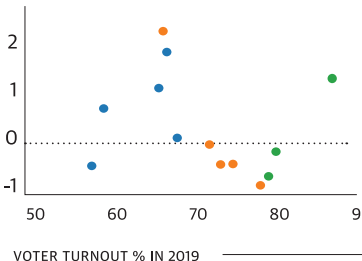
North

Both seats* in Jammu and Kashmir registered a drop in turnout compared to 2014. Srinagar saw the lowest turnout in Phase 2 (14%). It also recorded the highest drop since 2014: -11.8% points. U.P.’s record was mixed: of the 8 seats, Fatehpur Sikri and Mathura saw a lower turnout, but others did better



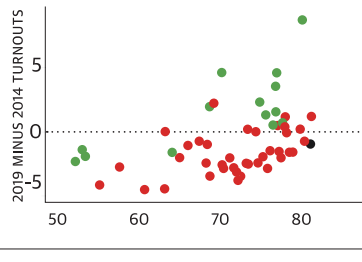
East

Seats in Bihar registered a poor turnout, but improved in 4 out of 5 seats since 2014. Seats in West Bengal recorded a healthy turnout, but dropped in 2 of the 3 seats. Odisha’s turnout was middling, but lower in 4 seats



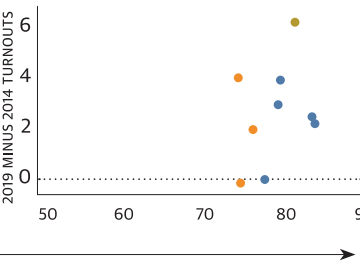
South

The Union Territory of Puducherry registered a good turnout (81.2%), but this was still lower than in 2014. Turnout in most seats in Tamil Nadu was lower, while many seats registered increases in Karnataka. Except seats in Chennai and Bengaluru metros, the others saw a decent to good turnout



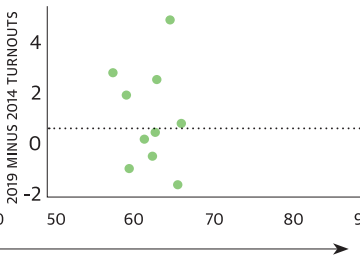
Northeast and Central

Seats in Assam and Manipur registered a good turnout and also improved from 2014. Chhattisgarh also saw a decent turnout this time. A marginal drop was registered in Mahasamund



West

The 10 seats which went to polls in Maharashtra recorded a lower turnout (average: 62.77%) than the overall average for all the constituencies that polled in Phase 2 (69.13%). Five of these seats registered a hike in turnout compared to 2014, while the rest recorded a drop



*The Srinagar seat is not visible in the graphs as the 14% turnout was too low to be plotted within the ranges

Source: Election Commission

FROM The Hindu. ARCHIVES

FIFTY YEARS AGO APRIL 22, 1969

King’s wait in vain for ‘uthappam’

The desire of the King of Malaysia, Yang di Pertuan Agong, to taste “uthappam”, one of the South Indian delicacies, could not be fulfilled late on Saturday night [April 19, Bombay] when he passed through Bombay on his way from Teheran to Kuala Lumpur. Soon after he landed in Bombay after midnight, the King expressed his wish to taste “uthappam” and as an alternative the “spaghetti”, an Italian dish. The Government officials and others present to welcome the King during his two-hour halt at Santa Cruz airport were in a quandary as they could not arrange for the dish. The airport restaurant could not provide these eatables at that late hour nor could the authorities get the “uthappam” from outside hotels, as they were all closed. Later, the King, accompanied by his Queen and party left for Kuala Lumpur without relishing the “uthappam” or the “spaghetti”.

A HUNDRED YEARS AGO APRIL 22, 1919.

A Sensational Caste Case.

Mr. A.A. Venkitarama Iyer, B.A., the local [Calicut] Sub-Magistrate, was engaged on Wednesday and Thursday last [April 16 and 17] in the hearing of the very interesting and sensational case of pollution against Dr. K.V. Choy and Mr. Sankara Iyer. Mr. M.S. Rama Iyer, B.A., B.L., assisted by Mr. P. Achuthan, defended the accused, while Mr. A.V. Govinda Menon, B.A., B.L., assisted by Mr. K.N. Subramania Iyer, B.A., B.L., conducted the prosecution. The accused had cited twenty-two witnesses for the defence of whom the first to be examined was Mr. P. Ramunni Menon, B.A., B.L., of the Ottapalam bar. He stated in the course of his evidence that in towns and Municipalities the custom of distance pollution was not really observed. He would say that the custom was practically dead. The vast majority of the people in rural parts also did not observe it. As a Home Ruler, it was not his view that social reform should precede political reform. But as a man, he believed in progress along all lines.

POLL CALL

Booth management

Referred to in some countries as ‘Get out the vote’, booth management or turnout management refers to the efforts made by political parties to increase voter turnout during elections. Such an effort is usually made by a political party to ensure that its core and potential voters turn out in large numbers to vote. Booth management can have a major impact on the number of seats a party wins in the election. Political parties manage booths by, say, appointing party workers and a booth manager to focus attention on every booth in a constituency.

MORE ON THE WEB

Blasts rock Sri Lankan churches and hotels on Easter Sunday

<https://bit.ly/2ILtHtg>