

Upholding cultural rights

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A recent directive of the Supreme Court, asking gram sabhas in two districts of Odisha to check whether the proposed Vedanta bauxite mining project in the state would harm the religious traditions and heritage of the tribals in the region, sets a precedent in terms of safeguarding the socio-cultural rights of marginalised communities who feel aggrieved about being sidelined by a model of development that prioritises economic returns rather than other equally important dimensions – cultural and religious – of human life.

The matter is particularly of interest for those of us who followed a similar case in Nigeria where multinational company Shell was ranged against the Ogoni tribals during 1993-94, exactly two decades ago. The parallels are striking – Nigeria is rich in oil (as Odisha is in bauxite) with 90 per cent of the country's foreign exchange earnings coming from oil exports. Shell is globally one of the largest multinationals, with operations in over 100 countries. The company wanted to extract oil from land that the Ogonis had been living on and farming for countless generations, and won the tribals' acquiescence by promising a "better life for the community". In reality the land was polluted badly, with pipeline leakages, crops damaged, rivers and creeks which were sources of water for the Ogonis rendered unfit for consumption through acid rain, and the gas flares that the project lit destroying wildlife that was part of the needs of tribals for their existence. The hospitals and schools that the company promised never materialised. On the contrary, respiratory illnesses became common. The company even laid oil pipelines through freshly planted farmlands. Pointing out that Shell's practices and equipment would have been classified as illegal elsewhere, especially in the developed world, activists led by Ken Saro Wiwa protested, calling it "environmental terrorism" (this was much before 9/11, when terrorism was not a prominent phrase in global discourses). Over 93,000 protesters gathered to oppose Shell's operations, and in the violence that ensued (reportedly initiated by the multinational, with the connivance of the repressive government that wanted the revenue from the oil business) one died and many tribals were injured. On May 22, 1994, Wiwa was dragged from bed, arrested, led away and imprisoned, and finally hanged on trumped up charges.

International outrage followed predictably, with Wiwa hailed as a martyr, but the episode typified the kind of ruthless, profit-driven clout that large multinationals enjoy (a clout that is increasing by the day, with many corporations earning more than the national incomes of some countries, making them powerful when faced with the governments at negotiation tables).

Like the tribals of Odisha who consider their Niyamgiri hills to be sacred, the Ogonis also held their land and territory as sacred. Plundering them for economic profits was nothing short of sacrilege, and therefore outrageous.

Article 29 of the Indian Constitution protects the rights of indigenous groups and communities to "preserve their culture", and if reverence to land is part of their deeply ingrained socio-

cultural beliefs, can a government go solely by considerations of GDP or forex? The state government of Odisha in fact challenged the Supreme Court's stay order two years ago, because they had a tie-up with Sterlite, a unit of Vedanta mining enterprise. At other venues too, around the country, locals are agitating against the takeover of their hereditary lands for the promotion of industries – from Narmada to Posco, to Singur. There was no Supreme Court intervention in the case of the Ogoni land, but if we call ourselves a democracy, do we not owe all citizens, including nomadic tribals, migrants and displaced persons, the right to live with not only dignity and basic needs but also the customs and cultural beliefs that are enshrined in their lifestyles?

If these dimensions are disregarded, what happens to Article 29 of the Constitution? From the Maoris Down Under to Romas in Eastern Europe, lives have been marked by disgruntlement under a globalised model of "development" that focuses solely on GDP growth. There's more to life than money earnings – and that is a central tenet that the Supreme Court order is now seeking to uphold, by pulling Odia gram sabhas into the decision-making process. It is an order to be hailed, not only for upholding the constitutional guarantees but also as a precedent for policy making in other developing countries.

On May 8, human rights experts from across the globe gathered at Geneva under the aegis of the UN to urge governments around the world to ratify key international instruments to allow individuals and groups to safeguard their social and cultural rights.

The optional protocol that has now come into force has been ratified by 10 countries (among them Mongolia, Slovakia, Uruguay, Bolivia, Argentina, Bosnia and Ecuador) to form a "Club for Social Justice" that seeks to emphasise the importance of cultural rights alongside political and civil rights. The three are, as the club points out, "inter-related". The group that met at Geneva included Anand Grover of India, special rapporteur on the rights of everyone to "enjoyment, both physical and mental."

The Supreme Court has given three months' time to the gram sabhas for their response to its directive. Half of that time-limit is already gone. Before June-end, we should have some indication of which way the blinkered, state-backed obsession with "reforms" (meaning almost exclusively, setting up large industries, especially with funding from overseas) will go, ignoring the basic needs of a sector like agriculture that not only feeds our teeming billions but also generates foreign exchange through exports.

In Karnataka, during the assembly elections earlier this month, every single party promised packages to "farmers", ranging from loan waivers to providing power for irrigation, and marketing infrastructure. Doubtless, we will soon see the same kind of wooing of farmers, as the Lok Sabha elections approach too – but it takes a Supreme Court directive to ensure that the voiceless sections of the populace, those who do not have clout in terms of money power, the farmers, tribals and other marginalised sections, do not get bulldozed into a lifestyle that robs them of the non-quantifiable inputs of daily routines that are just as important as – if not more than – the economic needs of roti, kapda and makaan.