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Injustice in god's country: the adivasi uprising in Kerala

[C R Bijoy](#)

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'God's own country' is how the southern Indian state of Kerala packages itself for international consumption. A serene mountain range, the Western Ghats, runs along the state's eastern border with Tamil Nadu, though the hills quickly drop off on approach to the western coastline along the Arabian Sea. Like its topography, Kerala's political economy is characterised by extreme variation. The first place in the world to elect a communist government, Kerala simultaneously ranks highest among Indian states in the provision of basic needs, at measures comparable to those found in Japan, South Korea and Taiwan, and displays per capita production levels well below the national average. The state has defied conventional notions of development, improving human index measures even at times of economic stagnation.

But glossed over in these impressive averages and unorthodox development strategies lie the stories of Kerala's downtrodden adivasis (indigenous peoples). Numbering 320,967 in the 1991 census, the state's 35 adivasi communities constitute about 1.1 percent of Kerala's population and 0.47 percent of India's scheduled tribe population. The benefits of the state's human development gains have not been universally enjoyed by all of its residents, especially not by adivasis, who are still fighting for basic rights, including ownership of land. The community's depressed condition, and the failure of the state to provide meaningful upliftment or to honour its agreements, provides the backdrop of a tribal uprising for control of land.

Showdown in Muthanga

On 17 February 2003, adivasis occupying tracts in the Muthanga forests of the Wayanad wildlife sanctuary within the Nilgiri biosphere reserve took captive 21 persons, mostly state policemen and forest department officials. The adivasis, who had been squatting on the land for six weeks as part of a land redistribution campaign, alleged that the group was setting fire to the forests in order to pin arson charges on them as a pretext for eviction. The next day, the adivasis handed over the captives unharmed to the Wayanad district collector, putting their statements on record, and were given assurances that there would no further attempts at eviction.

On the morning of 19 February, about 1000 heavily armed police and forestry officials moved in, assaulting and injuring many adivasis. Huts were set on fire, and many saw their property ransacked and destroyed. Nonetheless, they refused to be driven away. During the operation, members of the media were waylaid, and footage of the violent action was destroyed. With the fall of dusk, some policemen made use of their weapons; 18 shots were reportedly fired in

addition to teargas shelling. For the next 16 hours or more, the area was cordoned off from the outside world while police continued their operation.

The assault continued on 20 February, producing an official death toll of two – one adivasi and one policeman. Scores were injured, many of them women, children and the old. About 300 adivasis were arrested while hundreds more simply went missing, leading to fears that the actual toll of those injured, if not killed, might be considerably higher. Anyway lacking medicine or food, a majority of the adivasis moved into adjoining forests and villages in the neighbouring states of Tamil Nadu and Karnataka to avoid police combing operations through the villages, especially in Wayanad and Kannur districts.

On 23 February, two prominent adivasi leaders, CK Janu, an Adiya (literally, slave), and Adivasi-Dalit Samara Samithy (adivasi-dalit struggle committee) chief M Geethanandan, emerged from the forests to surrender to authorities. Some members of the press who had witnessed the events of the preceding days claimed that the state was plotting extra-judicial murders of these two figures. Visibly exhausted, Janu and Geethanandan handed themselves over to a government which less than a year and a half earlier had reached an agreement with them about the distribution of land to adivasis.

Land for peace

The attack in Muthanga sent shock waves across the state, and numerous tribals found themselves caught in an unprecedented dragnet. The Congress-led United Democratic Front government justified what it termed a "very successful" action with a number of supposed revelations. It said that Geethanandan's group and the Adivasi Gothra Mahasabha (the grand assembly of adivasis), a formation of village representatives from across Kerala led by Janu, were linked to such banned bodies as the Andhra-based Marxist-Leninist People's War Group, as well as the Liberation Tigers of Tamil Eelam. The state claimed that there were plans afoot to kidnap ministers, senior bureaucrats and foreign dignitaries from the recently concluded Global Investors Meet in Kochi. The chief minister, AK Antony, declared that the adivasis had armed themselves and established a parallel government.

Within days, despite the acceptance of many of these claims by sections of the mainstream press, the state's allegations began to unravel. It came out, for example, that the "arms" with which adivasis had supposedly battled authorities were actually farming implements. Reporters present during the attack have also begun to reveal the lawlessness and brutality of the late February roundup.

The occupation of Muthanga by over 1000 landless adivasi families began on 4 January, when they occupied barren land and eucalyptus plantations passing under the guise of state-protected forests. They put up over 700 huts and established a check post to regulate entry. These landless people, many of whom had arrived with all of their belongings, were preparing to settle down on land that had been allocated to them, after several decades of attempted procurement through institutional avenues had failed. The ownership of land has eluded adivasis at least since the state divested many communities of land through the establishment of 'reserved forests'. The state's rejection of adivasi land claims, its obstruction of court-mandated rectification schemes, and its

outright appropriation of existing adivasi lands, have occurred primarily beyond the scope of law.

The adivasi action in Muthanga was one part of a state-wide campaign to occupy land. According to adivasi leaders, the movement was both an attempt to redress the wrongs and an act of protest against the state's failure to live up to commitments made more than a year earlier. On 16 October 2001, the state acquiesced to various adivasi demands after a 48-day struggle led by Janu and Geethanandan involving the setting up of huts in front of important state offices. Adivasis, many of who were suffering from acute hunger, declared these huts refugee camps. In July-August 2001, 38 adivasis had starved to death in Kerala, though the government attributed the deaths to polluted water, liquor and ill health. The starvation deaths of the summer of 2001 were, of course, not the first of their kind.

Incensed by these deaths, and angered by the state's failure to fulfil its obligations and promises, adivasis, mostly women and children, marched to Thiruvananthapuram to set up refugee camps. With support from various sections of society, the adivasi campaign quickly gained currency as a democratic movement, and protests threatened to snowball across Kerala. Land, the source of survival, was agreed by the government and adivasi leaders to be at the heart of a solution, and the two sides reached an agreement in principle that landless persons, or those owning less than an acre, would receive up to five acres of land within one year, and that policies would be devised and enacted to make these lands self-sustainable within five years. Moreover, the central government would be lobbied to demarcate adivasi areas in the state under Schedule V of Article 244 of the Indian constitution. This provision confers rights and powers for a high degree of self-governance under the Panchayat Raj Act (Extension to the Scheduled Areas), 1996. Adivasis in Kerala, unlike those in 10 other states, have till date not been included under Schedule V. The government also agreed to abide by the outcome of pending Supreme Court of India cases on land transfers to scheduled tribes in Kerala.

By 1 January 2002, the government had identified 53,472 families as eligible to receive five acres of land, of which 22,491 were landless, while the remainder had less than one acre. Concurrently, the state identified 59,452 acres for distribution. The land transfers, which were to be completed by the end of 2002, began with the chief minister distributing land in Marayur in Idukki district on 1 January. Among others, CK Janu was invited to attend the ceremony.

The land distribution plan, however, sputtered out with disappointing results for the adivasis. By the end of the year, only 843 families, 1.6 percent of the more than 50,000 identified, had received a total of 1748 acres, an average just exceeding 2 acres per family. Adivasi leaders pointed out that at such a rate it would take more than 50 years for every family to receive land. Vested interests in the forest- and plantation-based economy, who control much of the land in question, exerted their influence on the state machinery to scuttle the government's agreement with the adivasis. As 2002 proceeded, the Adivasi Gothra Mahasabha, which had earlier declared that it would give the government the time necessary to complete land transfers, decided to implement its own programme of land distribution given the state's inadequate efforts.

The Mahasabha undertook a whirlwind mobilisation campaign through the state, which culminated in a meeting attended by thousands at Mananthavady in Wayanad district on 25

August. At this session, the Mahasabha constituted a 60-member tribal court, consisting of 20 women and 40 men, representing the various adivasi communities. The 'court', in full public view, declared that in light of the non-implementation of the agreement by the government, adivasis should occupy lands. This decision was based on traditional adivasi principles of participatory democratic consultation, and the Muthanga occupation of early 2003 was one outcome of this decision. Similar occupations have occurred in other parts of Kerala earlier.

Roots of a mass movement

The three dozen adivasi communities of Kerala have had varying fortunes over the last three centuries, though all have suffered setbacks since independence. In the Malabar region, the Paniyas and Adiyas, two groups heavily involved in the Wayanad occupation, became serfs to local landlords in the 18th century, unlike groups such as the Kurichiya and Kurumba. The inland Wayanad region today has the highest concentration of adivasis, in large part as a consequence of the Grow More Food programme initiated in 1942-43, which pushed many adivasis off their lands. In Attapady and Palakkad districts, home to the Irulas, Muduga and Kurumba communities, adivasis enjoyed relative freedom until the mid-1950s, when migration from surrounding areas reduced the adivasi population from 63 percent in 1961 to 30 percent by 1991.

Other adivasi groups, such as the Kanikar, Muthuvan, Urali and Mala Arayan, had been settled agriculturists under protective local kings in the pre-independence era. Still other groups, such as the Malapandaram, Kattunayaka and Cholanayaka, had remained hunter-gatherers throughout this period. But with the establishment of tea, coffee and rubber estates, and government appropriation of forests, many adivasis were reduced to bonded labourers.

With the gradual destruction of traditional livelihoods, adivasi communities turned to government assistance, without much success. Numerous tribal rehabilitation projects, including those in Wayanad district, have been mired in corruption since the beginning. Notable examples of failing, corruption-prone programmes are the Sugandhagiri cardamom project and the Vattachira collective farm. The state further refuses to acknowledge the plight of adivasis by dismissing numerous reports of hunger deaths as arising from ill health. Appropriation of adivasi land has also arisen as a consequence of hydroelectric projects and dams, such as those in Idukki, Chimmini and Karapuzha. The declaration of wildlife sanctuaries in traditional adivasi lands, while propping up tourism, has further contributed to their marginalisation. Tribal development projects and infrastructure development, in addition to facilitating massive corruption, have primarily benefited non-adivasi settlers and encouraged further in-migration, leading to social chaos and breakdown.

By the 1970s, over 60 percent of adivasis in Wayanad were landless, and today reports indicate that 90 percent of adivasis in the state are either landless or possess less than one acre. Even progressive legislation, such as the Kerala Land Reforms Act, has accomplished little to address the land ownership disparity. Non-tribals often lease tribal lands on short-term cultivation contracts and then register themselves as tenants with the authorities. Renters then make claims of ownership on the land under the terms of legislation designed, ironically, to protect adivasi interests, dispossessing the tribal owners who have become 'landlords'.

Land is integral to the survival of adivasi communities, as is evidenced by the mass agitation of the past few years. The recent history of migration and dispossession, as well of ineffectual or even counter-productive government policies, has led adivasi groups to pursue land claims through extra-legal avenues. In this climate, the politicisation of land ownership and tribal grievances has become a dominating aspect of the ongoing struggle in Kerala.

Rule of subverted law

The late 1960s and 1970s saw the establishment of adivasi organisations within political parties. This coincided with the birth of the Naxalite movement, which struck a chord amongst the adivasis, especially in Wayanad. Some Adiya activists joined hands with the Naxalites, and killed some landlords.

Adivasi political mobilisation has not been the exclusive purview of any one ideology, however. The Jan Sangh, the forerunner of the right-wing Bharatiya Janata Party, the Congress and communist parties have all at various times taken up the adivasi campaign for traditional land rights. To wean adivasis away from revolutionary movements, in 1975 the communist government passed the Kerala Scheduled Tribes Act (Restriction on Transfer of Lands and Restoration of Alienated Lands). This act was later incorporated into the Ninth Schedule of the national constitution to protect it from legal challenges.

But the act's operational mechanisms were only developed in 1986, more than a decade after its passage. Under the terms of the law, all adivasi land transactions between 1960 and 1982 were invalidated, with land to be returned to the original tribal owners. Further, the transfer of land from tribals to non-tribals was prohibited from 1982 onwards. As early as 1960, the Scheduled Areas and Schedule Tribes Commission headed by UN Debar under Article 339 of the constitution, recommended that all tribal land transferred after 26 January 1950 – the day the constitution came into force – should be returned to the original adivasi owners. This legislation emerged from obligations of state governments to protect adivasi land rights as codified in Article 244.

In Kerala, claims made under these provisions by 8754 adivasis on approximately 9910 hectares have returned only about 545 hectares to 463 petitioners. A case was filed in the high court in 1988 to expedite adivasi claims, but even though the bench delivered a favourable verdict, the state political machinery has obstructed implementation of court-ordered land restitution. After aborted attempts by United Democratic Front and Left Democratic Front governments to implement corrective land ownership policies, an amendment to the land distribution law was passed in 1996 to prevent its enforcement. KR Narayanan, then president of India, rejected the amendment, and the state assembly, threatened with contempt of court, passed the Kerala Restriction on Transfer and Restoration of Lands to Scheduled Tribes Act in 1999 to replace the 1975 legislation. That same year, a high court ruling struck down the new legislation as unconstitutional and declared the Kerala government in contempt of court. Legal battles around these issues are still on.

Actions by the government to avoid returning land to adivasi families are also in violation of international agreements, both those ratified by India and those under negotiation or consideration. Kerala's nullification of commitments made to adivasis violates articles three, 13 and 14 of the ILO Convention 107, ratified by India, relating to the protection of properties,

respect of customary procedures of transmission of traditional ownership of lands, prevention of non-tribals from securing ownership or use of lands belonging to tribals, and provision of additional land in the event of shortages. State actions also violate section two of ILO Convention 169 on Indigenous and Tribal Populations, which explicitly recognises the territoriality of tribals, tribal identity as fused to land ownership, and the right of tribals to ownership and possession of lands traditionally occupied, though India has not yet ratified this agreement. Government behaviour also violates part six of the UN draft Universal Declaration of the Rights of Indigenous Peoples, presently under negotiation.

However, neither the 1975 act nor its 1999 successor addresses the issue of adivasis lacking documentary proof of past land ownership. The Kerala Private Forest (Vesting and Assignment) Act of 1972, by which so-called private forests were taken over by the state, was designed to provide divested adivasis with about 23,000 hectares in the Western Ghats, a three-decade-old commitment with which the government is yet to comply. Among other excuses, it is alleged that the Forest Conservation Act of 1980 does not permit the allotment of official forest lands for non-forestry purposes, a claim that is not entirely true. In 1990, the Ministry of Environment and Forests of the government of India issued clear guidelines regarding encroachment on forest lands; reviews of disputed claims over forest lands arising out of forest settlement; disputes regarding titles, leases and grants involving forest land; and conversion of forest villages into revenue villages and settlement of other old habitations. These orders, which to some extent recognise the rights of adivasis, have also been disregarded. It is here that the CK Janu-AK Antony agreement becomes quite significant.

What is to be made of these agreements, laws, court cases and their systematic subversion? Governments of the two coalitions that have consistently run the state of Kerala since independence have consistently violated constitutional provisions. The existing politico-administrative structure fails to defend the law by failing to execute it. The law itself was amended and subsequently replaced in a manner contrary to constitutional obligations, despite public opposition. The government has violated high court orders and consistently disregarded judicial pronouncements. Judicial responses to all of this have been grossly inadequate, and parliamentary democracy and the political system have failed to uphold the constitutional rights of adivasis. In these circumstances, the adivasis recognised that the present political-administrative arrangement would not deliver justice and demanded a system that would transfer to themselves certain powers and responsibilities of enforcing the law. It is in this context that the actions of the Adivasi Gothra Mahasabha and other groups to evolve participatory self-governance and methods of resolving long-standing inequities have arisen.

~CR Bijoy is an activist and writer based in coimbatore.