

The Battle for Lalgarh

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The magnitude of the unleashing of repression by the West Bengal State on the people living in Lalgarh has come to be called "the battle for Lalgarh". It is unfortunate that the situation should be characterized so. There has been lot of complaints against CPI(M) vigilante motor cycle riders who have become a law unto themselves and these Party law enforcing forces became more visible after Jindals were given a land SEZ, after Singur fiasco, and the unpardonable use of violence in Nandigram. Everyone of these did not happen without gross human rights violation and which took an enormous toll of human lives and displacement of people living in these areas. The legislation creating SEZ was pressed into service by the Government inviting Jindals as developing entrepreneur and handing over vast tracts of land and exempting them from several statutes in the Schedule to the Special Economic Zone Act without examining whether such a course can be adopted or not under the Directives Part of the Constitution or not, and without taking note of the fact that Article 40 was enforced by the 73rd Amendment to the Constitution and without consulting the bodies created by the 73rd Amendment. This is the beginning of the violation of Distributive Justice, basic norm stressed by the Constitution and is a mandatory obligation. These are fundamental principles for governance and people do not think the Governments both at the centre and the states can ignore these principles.

There are certain provisions of the Directives which get noticed and read, read frenetically when the Constitution is in crisis. The only Prime Minister who emphasized the importance of the Directives of State Policy for the first time was Mrs Indira Gandhi just before the imposition of the 1975 Emergency and its importance was recognized by the Apex Court in Keshavananda Bharathi case where the majority held that Preamble and the Directives as forming part of the Basic structure. That was when Mrs Indira Gandhi was around, nether before nor after. People are also aware of the debate on the Directives from the draft stage and after equivocate interpretive exercise in courts and by legal scholars they have accepted the interpretation of the Directives by Ambedkar and BN Rau, their use is when the political Government will have to explain why they failed to fulfil these obligations. From Singur to Nandigram Mamata Banerjee fought against the total disregard of the Directives of the Constitution by the Ruling Party of the State. Her victory in a sense is the victory of the Directives of the Constitution against liberalization and the Reform policies pursued by the State and Central Governments.

The Communists have lost whatever Marxist moorings they had after the collapse the Socialist systems in the world and they have not restructured any alternative Socialist perspective for working out their socialist politics through the Parliamentary system. Anyway that will be their problem and until then the Marxist signboard may not really help them in their electoral politics and even as a defense.

Civil Liberties and Human Rights activists are concerned with the justiciable and political rights recognized by the Constitution that need to be looked into

when Human Rights violations take place or when guaranteed political and fundamental rights are violated without any legislative authorization. By Protection of Human Rights Act 1993, the Human Rights Covenants and Declarations have been given a statutory basis and so have become part of the legal structure and have become politically enforceable and many Declarations and Covenants have guaranteed socially transforming rights.

A few of the State's Fundamental obligations, which do not become invisible merely because they are not justiciable deserve serious attention. A few of the Fundamental obligations read : "That the ownership and control of the material resources of the community are so distributed as best to subserve the common good (Article 39 (b)). That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment. (39©) All these areas are affected by unrest because of the failure of the State to perform these fundamental obligations.

For the Government's failure to perform their obligations should the Central Government deploy the Army and the Cobras to deal with Maoists who may not be able to distinguish people and the Maoists? The Maoist intervention or for that matter any political intervention on account of the failure of the successive Governments to perform these Fundamental obligations cannot be considered 'terrorist' and invoke the draconian law. To consider any political movement as a problem is obnoxious, particularly which has been present for over four decades. No political movement is a problem. The movement arises to resolve the problem that constant Constitutional misgovernance brought about banning organization or killing them in "encounters" have never given a quietus to issues. Electoral system and its politics will lose total credibility leaving the right to vote as a fundamental right which recognizes the right in the people to change the Government through the electoral process or otherwise. In fact it calls for a debate on social transformation in terms of the constitution

Though the Directives are not justiciable, the principle contained therein are Fundamental to the Governance of the Country. There is reserve of latent power in the people which few minorities have the strength or the cohesion to overcome. If the State performs the principles of governance applicable to the situation by calling the Maoists to suspend armed violence, then all moves by the Army and paramilitary forces must be halted and the Cobras and other Intelligence Agencies concerned from all states who are members of the joint command should withdraw to their Headquarters. □□□