

## OPINION » COMMENT

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### Decisions of the people, by the people, for the people

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Standing firm: “The protests of the Dongria Kondhs against Vedanta’s proposal to mine in the Niyamgiri hills showed a community’s power to provide or withhold consent for a development project.” File photo of the tribals. Photo: A. Manikanta Kumar

*People’s objections, from Chhattisgarh to Odisha, against large development projects have brought out the real power of the Forest Rights Act of 2006.*

Democracy is alive and kicking in India. No, I am not referring to the Assembly elections. It is unfortunate that the term democracy has been reduced to the drama of periodic elections and the subsequent reliance of the electorate on politicians and bureaucrats. When these powerful few do not perform, or, worse, indulge in cynical manipulation of power, we grumble and curse and await the next elections for redressal. This is not democracy.

#### **A direct form of democracy**

A series of events reported in the last couple of months provides a very different meaning to democracy, one that harks back to its Greek origin (*‘demos’* and *‘kratia’*, or power of the people). Unlike the representative form that most countries have adopted, these events point more to a direct form in which people on the ground have the primary power of decision-making.

On March 16, five Adivasi villages in Raigarh, Chhattisgarh, unanimously vetoed the plans of South Eastern Coalfields Limited (SECL), a subsidiary of India’s public sector coal mining giant Coal India Limited (CIL), to mine their forests. These villages were Pelma, Jarridih, Sakta, Urba and Maduadumar.

On March 23, the Kamanda gram sabha of Kalta G.P in Koida Tehsil of Sundargarh district in Odisha unanimously decided not to give its land for the Rungta Mines proposed by the Industrial Infrastructure Development Corporation of Odisha Limited (IDCO).

On May 4, the National Green Tribunal directed that before clearance can be given the Kashang hydroelectric project (to be built by the State-owned body Himachal Pradesh Power Corporation Ltd. or HPPCL), the proposal be placed for approval before the Lippa village gram sabha in Kinnaur district of Himachal Pradesh. The 1,200 residents of Lippa have been waging a seven-year struggle against the project.

And then on May 6, the Supreme Court rejected a petition by the Odisha Mining Corporation seeking the reconvening of gram sabhas in the Niyamgiri hills to consider a mining proposal that the sabhas had rejected in 2013. The court observed that the conclusion of the gram sabhas at that time was to reject the mining, and the petitioner would have to approach an appropriate forum if it wanted to challenge this.

What is the implication of these decisions taken at various levels?

The spirit of the 73rd and 74th Amendments to the Constitution was to move towards more direct democracy in villages and cities. However, though over two decades old, these have hardly been implemented. Notable exceptions are where communities have taken power into their own hands — some instances of tribal self-rule in central India; the partial measures of State governments like Nagaland with its

'communitisation' law, providing greater powers over departmental budgets to village councils; and Kerala with its experiment in peoples' planning. Generally, the eminent domain status of the government has been used to override local objections. Development decisions are top-down, and communities or citizens have no significant financial and legal powers.

Among the first instances when the power of a community to provide or withhold consent for a development project was recognised was in the case of the Vedanta corporation proposal to mine in the Niyamgiri hills. In its order of April 2013, the Supreme Court directed the government to hold gram sabha meetings to ascertain the opinion of the Dongria Kondh Adivasis living there. All 12 gram sabhas rejected the project, forcing the Union Ministry of Environment and Forests (MoEF) to withdraw permission for mining. Loath to give up a lucrative deal, the State government launched a fresh bid to overturn this by approaching the Supreme Court again in early 2016 (through its Odisha Mining Corporation). It had, meanwhile, done everything possible to scare the Adivasis into submission through regular harassment (including imprisonment and killing of tribal members) by armed police forces. The Adivasis have stood firm in the face of this repression, and the Supreme Court's recent decision is a vindication of their campaign.

### **Community's consent**

Some of these decisions have also belatedly brought out the real implications of the Forest Rights Act of 2006, so far poorly implemented in most parts of India. The Act provides for recognition of the rights of communities to govern, use, and conserve forests they have traditionally managed and used, reversing 200 years of colonial and postcolonial history in which the state had taken over control of forests. Logically such a right should mean that any activity in a community-governed forest should be subject to consent by the community, in recognition of which the MoEF issued a circular in 2009, requiring such consent for diversion of forests for development projects. In one way or the other, most of the above assertions or decisions are linked to such powers under the Forest Rights Act, coupled with constitutional guarantees and other laws such as the Panchayats (Extension to Scheduled Areas) Act, 1996 or PESA.

The principle of 'free and prior informed consent' (FPIC), enshrined in international agreements for some years, was reiterated most strongly in the recent UN Declaration on the Rights of Indigenous Peoples. India has not yet brought this into its legislative framework, other than in partial forms such as the circular under the Forest Rights Act and the long-forgotten PESA. The events of March to May provide an occasion for peoples' movements to press for FPIC to be incorporated as a central tenet of all development and welfare planning. Widespread mobilisation on this is necessary because the Central government is otherwise on an overdrive to dilute hard-fought rights of freedom of speech and dissent, access to information, and decentralised decision-making.

Beyond FPIC, deeper democratic reforms would help ordinary people get political, economic, and legal powers through grass-roots collectives that enable them to take decisions affecting their lives. Such direct or radical democracy needs to be the fulcrum on which more representative institutions at larger scales would operate, downwardly accountable through various mechanisms. Accompanying it would be alternative pathways of human well-being including forms of economic activity that are ecologically sustainable, directly in the control of people rather than the state or corporations, more locally self-reliant and less dependent on fragile global webs of exchange. Many initiatives in India are already proving the viability of such pathways. Such a democracy will look very different from the partial, rather lame, form we have today.

*(Ashish Kothari is with Kalpavriksh, Pune.)*

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