

The NHRC on Salwa Judum: A Most Friendly Inquiry

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The Supreme Court, which is hearing writ petitions on the Salwa Judum in Chhattisgarh asked the National Human Rights Commission to constitute a fact finding committee that would prepare a report on allegations “relating to violation of human rights by the Naxalites and Salwa Judum”. The report, prepared by a group set up by the police wing of the NHRC makes no pretence of neutrality or objectivity. It reads like a partisan statement, whose tone and tenor is to protect the Salwa Judum and its image from being tarnished by allegations of crime.

The Salwa Judum phenomenon has occasioned a number of reports, most of them strongly critical and the patronage it gets from the State in Chhattisgarh. Not many who know the situation in Dantewada (now Dantewada and Bijapur) districts of the state and who are fair-minded would quarrel with the criticism, though there can be and there are differences in the assessment of what exactly the Salwa Judum signifies. But the fair-minded observer would be disturbed by the almost total absence of any critical comment on the Maoists in most of the reports.

While the fair-minded would only be disturbed, any partisan of counter-insurgency as practised in the jungles and villages of south Bastar could be expected to find it intolerable, and it was always a matter of time before someone would come out with a vengeful parody of the discomfiting silence. Such a parody has now come out, but its author is not some crony of Mahendra Karma but the National Human Rights Commission (NHRC). The report produced by the NHRC after conducting an inquiry as directed by the Supreme Court easily signifies the lowest point in that institution’s decade and a half of existence.

The Supreme Court has been hearing two writ petitions questioning the collusive impunity given to the private militia known as Salwa Judum by the government of Chhattisgarh. Some of the petitioners are concerned outsiders who have personally visited the affected areas and seen the situation for themselves. And some are local people, tribal residents of the affected area. They set out in detail the vicious violence of the Salwa Judum and the State’s complicity with it. Anyone who knows anything about Dantewada post-June 2005 knows that whole villages have been set on fire and hundreds of

people have been massacred by the Salwa Judum in villages lying along a wide swathe running along the south and south-west of the undivided Dantewada district, abutting Khammam district of Andhra Pradesh.

Fact Finding Committee

The Supreme Court felt it necessary to have a report on the allegations (“relating to violation of human rights by the Naxalites and the Salwa Judum and living conditions in the refugee colonies”), and chose the NHRC to do the job. The Court did not ask for conclusive investigation of the complaint, offence by offence. It asked the NHRC to examine/verify the allegations by appointing “an appropriate fact finding committee with such members as it deems fit”. The NHRC need not have appointed a committee out of its own members. It could have chosen persons of some experience in such matters, and fairness of mind. Or it could have formed a committee of insiders consisting of its members with a judicial/administrative background. For reasons best known to it, however, the NHRC directed its police wing to constitute a fact finding committee. The Director General (Investigation) of the NHRC, perhaps inevitably, constituted a team consisting of three officers of the Indian Police Service (IPS) and other lesser police functionaries under his supervision.

It was an unfortunate choice on all counts, and the report shows that in ample measure. Police officers, retired or in service, corrupt or upright, have generally expressed great appreciation of Salwa Judum. Forever looking at armed insurgencies from the point of view of armed counter-insurgency, they have seen in them an ideal tool: a vigilante group of tribal communities that can be passed off as a people’s uprising and conveniently endowed with the impunity required to do the State’s dirty work. The report shows that mere employment in the NHRC does nothing to change a policeman’s (or woman’s) spots. A human rights perspective on insurgency or armed militancy, whether it has a slight or a substantial popular base, is not easy for even the most steadfast democrat. Policemen and women with

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their occupational distaste for usurpation of their exclusive monopoly of weapons will be the last to arrive at it. To constitute a team consisting wholly of police officers to enquire into the Dantewada (we will employ this as short for Dantewada and Bijapur) situation was a most unhappy decision, and tells poorly of the NHRC's understanding of its task.

The report makes no pretence of neutrality or objectivity. It has a 13-page introduction which is mostly a harsh comment on the Naxalites, described at the very outset as a "menace", followed by a five-page chapter titled "Human Rights Violations by the Naxalites". The third chapter of just one and a half pages is on "Human Rights Violations by Salwa Judum" and another one and a half pages on the "Role of the Local Police, Security Forces and spos". It concludes almost regretfully that the Salwa Judum is no longer able to function outside the relief camps. And then there is a lengthy chapter running into 67 pages titled "Findings" which gives the report of the team's investigation into the allegations listed in the writ petitions.

Maoist Actions

It may be added that the Maoists did nothing to lessen the prejudice. While the enquiry was going on, they blew up high tension electricity transmission lines plunging the entire region (four districts, to be precise) in darkness for about 10 days. It was a senseless thing to have done at any time, but a foolish act to boot when an enquiry by the NHRC into the very allegations the Maoists have been making for about three years was on. Those who are not familiar with their ways may find it strange that they chose just this time to do indulge in such destruction, but such want of appositeness is not strange or new with them. Whether they admit to it or not, such expression of contempt of institutions and processes of public justice under the State is quite common with the Maoists, though it has never prevented them from demanding enquiries and lawful action by such institutions against perpetrators of what they believe to be injustice.

The NHRC team's strong prejudice against the Naxalites comes through in every sentence of the sections dealing with

them. In fact, reading the report, one would be at a loss to know why the Naxalites are at all there: it appears that their only activity has been to oppress the people. The minimum of credit normally given to them even by the unsympathetic middle class, namely that they put an end to extortion by unscrupulous traders and corrupt civil servants, finds no place in the report. An allegation which those who have spent many more days in the area than the NHRC team have never heard finds place in the report, namely that "as per the diktat of the Naxalites, none of the tribal children was allowed to continue his/her education beyond the fifth standard". It is almost certainly an invention of the roadside relief camps. Interestingly, the statements against the Naxalites are listed out without necessarily prefixing them with a suitably cautious "alleged" or "supposed" (of the 16 allegations listed out in the first three pages of the report, only one is graced with the prefix "alleged" and another with "reported"), but about the large mass of tribals from Chhattisgarh who have run away to Andhra Pradesh it is said that they were "allegedly" displaced by the Salwa Judum. Could they have gone on a picnic?

The prejudice comes out most starkly in the reference to tendu patta in paragraph 1.29. It is stated about the adivasis that "Tendu leaves are the most important source of their income", which is substantially true. It is then added that "the control exercised by the Naxalites over the collection and fixation of tendu patta rates also caused indignation amongst the tribals". Between these two statements there should, in all fairness, be two more. One, the terrible exploitation of tribals by the tendu patta contractors who got the strenuous job of collecting the jungle leaf done for a pittance before the Naxalites entered the picture. Two, the fact that Naxalite intervention increased the payment manifold (about 50 times, in fact) over the period of 20 to 25 years that they have been active in the area. This is not an exorbitant increase wrought by putting the gun to the head, but a just increase commensurate with the labour involved in the task of collecting the leaf, even if, as often as not, it was achieved by putting a gun to the contractor's

head rather than any agitation by the leaf-pickers. In any case this has boosted the disposable income in the hands of tribals substantially and has been the single-most important economic benefit the adivasis have got from the presence and the organisation of the Naxalites. If nobody in the relief camps or the villages of Dantewada told the NHRC's fact finding team of this, then it must be concluded that nobody was willing or in a position to tell the truth.

It is true that in addition to higher wage rate for picking the leaf the Naxalites also demanded and took "party fund" from the contractors, and that in the last couple of years before the rise of the Salwa Judum the tendu patta contractors withdrew from the business over considerable areas to counter the pressure put upon them by the Naxalites. It is also true that in the year 2005 the government of Chhattisgarh decided to dispense with the contractor in the tendu patta business and replace him by cooperative societies of the tribals themselves, against which the Naxalites gave a call for strike, asking the adivasis to stop picking the leaf. This could well have led to some "indignation" such as that referred to by the NHRC's report. But this way of putting it would give a very different picture than that conveyed by the report.

The origin of the Salwa Judum is explained in terms that the Chhattisgarh government has been propagating most vigorously. It is located in the gathering of adivasi people in the village of Karkeli (wrongly spelled as Kankeli) in Bijapur district in the summer of 2005 pursuant to the arrest of the village youth in the aftermath of the blowing up of the Central Reserve Police Force vehicle by the Maoists on 5 May. It is said that the people expressed resentment at such armed actions which bring repression upon their heads and constitute a grave threat to the life and liberty of able-bodied youth. This incident should be regarded as beyond controversy since a Maoist-inspired publication also speaks of the resentment. Though the said publication does not say so, this seems to have been followed by meetings of tribal people at some villages nearby, such as Tadmendri, Usikapatnam, Ambeli, etc. The issue of harassment faced

by the adivasi people at the hands of the police, who claimed to be pursuing Maoists, was discussed by these gatherings and it appears that many blamed the Maoists for giving an opportunity to the police by their unilateral acts of violence.

Growth of Salwa Judum

But the Salwa Judum did not grow by itself by a multiplication of such meetings. It grew only after Mahendra Karma, a corrupt and over-bearing tribal leader of the Congress Party, who has an ancient grouse against the Maoists and is a veteran of two Jan Jagran Abhiyans, entered the picture to create a "movement" out of these instances of resentment. And from his entry onwards, it is better described as a lynch-mob than as a movement. The mob raided villages, forced the people to join it on pain of death or burning of their dwellings, and forced the most new recruits to compromise themselves by committing murder or arson in the next village against adivasi people just such as themselves.

There is no doubt that at all times the Salwa Judum has consisted of some people who have a real grouse against the Maoists, for which the Maoists have certainly given cause, but it has swelled its numbers by such methods. And its main

task has been to clear the villages, first of Maoist sympathisers and then of all the people, so that the terrain would be free for the security forces to hunt and flush out the Maoists. This is a very conscious decision taken by Mahendra Karma and aided by the administration which set up or allowed the setting up of the camps which came up as a rash all over the south and south-west of the then undivided district of Dantewada. The members of the NHRC team, all of them experienced police officers, surely cannot pretend ignorance of this tried and tested method of counter-insurgency, which has been followed by many a state, including our own in Mizoram? They do know, and therefore strenuously avoid any interpretation of the Salwa Judum that would even remotely suggest such parallels. It is depicted instead as an adivasi people's protest movement against Naxalite oppression, "an outburst of the pent-up feelings of the tribals who suffered for long at the hands of the Naxalites", "the peaceful movement by the villagers against the Naxalites" which was "bloodied by Naxalite attacks".

The lengthy chapter titled "Findings" sets out the results of the investigation done by the NHRC team into individual

allegations contained in the writ petitions, and those received from the people during the team's visit. A first reading gives the impression that many of the allegations made by the petitioners before the Supreme Court are unfounded. But a more careful reading tells a more complex story. In some cases the local people of the concerned village are reported to have said to the NHRC team that the facts underlying the allegation are not true, and therefore a conclusion is recorded that it is false. In other cases the report says that the village concerned is deserted or burnt down or that the local people have expressed ignorance of the matter, or that they have said that the whereabouts of the persons alleged to have been killed are not known. In such cases the conclusion drawn is that the allegation is "not substantiated".

To take just one instance, paragraphs 6.46, 6.46.1 and 6.46.2 deal with the allegation of the petitioners that one Dallu Raut of Markapal was killed by the Salwa Judum or security forces. The NHRC team interacts with the villagers from Markapal at the Bairamgarh camp, and it is confirmed that Dallu Raut indeed died. But while they say it was the Naxalites who killed him, in "cross-questioning some of them stated that he had been killed by the

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Naga battalion". The report adds that there is no police record at all of his killing, and concludes that in the result "the allegation that Dallu Raut was killed by the Salwa Judum or security forces could not be substantiated".

Responsibilities of an Investigation

But who is to substantiate it? Investigation – since investigation is what the NHRC team has set out to do – is not an adversarial game played by the complainant and the investigator, where the investigator challenges the complainant to prove to allegation and triumphantly records his/her failure in case evidence is not forthcoming. In the trial of a criminal case in a Court, the law as we follow in our country does say that the complainant carries the burden of proving the allegation, and the case will fail if the complainant fails to do so, but no law or legal principle says that this applies to the investigation of an offence. It is for the investigator to find out what happened to the person whose whereabouts are not known, how the deserted village got to be deserted, and how the burnt village got to be burnt down, etc.

The report of the NHRC reveals no such effort. They have not even enquired with the local police as to what investigation has been done about the burnt remains of a village. Or whether they know anything at all about the whereabouts of the missing persons. Or who in their opinion as investigators caused the killing of a dead body found in the villages or the jungle. Without so much as talking to the salaried investigators of offences appointed by the state of Chhattisgarh how did they record that a complaint could not be verified or substantiated? If the team found no time to pursue their investigation beyond talking to the people found in the village concerned, if such village is still habitable and habited, it should have recorded that it is in no position to draw any conclusion. It cannot conclude that the complaint is "unsubstantiated" or not verifiable. The fact that having dismissed most of the allegations in such manner, the report at the end adds that cases of missing persons must be investigated, does not set right the totally misleading impression that the "findings" give.

In some cases, where the allegation is that a person has been killed by the Salwa Judum, the report finds that the person has died in an "encounter" and declares that the allegation is false. Indeed, in the conclusion it is specifically stated that many of the persons listed by the petitioners as victims of the Salwa Judum are "Naxalites killed in encounters with the security forces". It is found "significant" that many of the names listed by the petitioners as victims of the State/Salwa Judum violence are found in a list of martyrs published by the Maoists which was recovered in a police raid. It is not clear what is significant about that. Why should not a victim of Salwa Judum violence be regarded as a martyr by the Naxalites? What difference does it make to the complaint if such a victim turns out to have been an activist of some Maoist forum such as the Dandakaranya Adivasi Kisan Mazdoor Sanghatana?

Salwa Judum and Armed Forces

Equally importantly, the opinion that someone officially declared to have been killed in action by the security forces should not be described as a victim of Salwa Judum violence begs the question central to the whole case: has any distinction ever been maintained in Dantewada between the Salwa Judum and the police/armed forces? The NHRC team does not answer the question with evidence, but pleads very strenuously in favour of such a distinction. It is said at more than one point that the Salwa Judum should not be confused with the police or armed forces operating in the area, even with the Special Police Officers (SPOs) who have in fact been picked from out of the most active participants of the Salwa Judum "movement". This is where the report reads like a partisan statement of the case and not an impartial fact finding. In fact, the dominant tone and tenor of the report is to protect the Salwa Judum and its image from being tarnished by allegations of crime. Even where it becomes necessary to admit that the Salwa Judum has committed some offences, it is hedged by a hurried caveat that the Naxalites did worse. Where it becomes necessary to recognise that the police have not registered any offence against the Salwa Judum it is again quickly added that even

before the Salwa Judum entered the scene, many crimes committed by the Naxalites would go unreported because the people were afraid to complain. This certainly does not answer the complaint, because the police never desisted from registering a crime in the context of Naxalite offences of which they had information for the reason that no one gave a complaint. In the case of Salwa Judum even murder and arson in public within the sight of the police have gone unrecorded.

Tactic of Counter-insurgency

But to be fair to the NHRC team, they are not partial to this particular creation of Mahendra Karma but to the principle underlying it: a valuable tactic of counter-insurgency in the eyes of the police, which should not be delegitimised even if it means overlooking evident instances of violation of the canons of the rule of law. Even such a routine experience which every visitor has had, namely, the stopping and checking of vehicles and collection of a toll by the Salwa Judum, is not acknowledged. That is also said to be "not substantiated". Well, one can only say that if the NHRC team had gone around without police escort, they themselves would have been stopped and checked, which is the best type of substantiation. And if they had gone around in a vehicle with an Andhra Pradesh registration, as many were constrained to, they would have experienced a trepidation that would have ruled out the conclusion that this is no different from the joyous collection of money at festival times, said to have been "traditionally done by tribals in Bastar since many years". (Do not even non-tribal villagers indulge in such innocent if irritating pastimes in other states? And have the police not distinguished this from extortion?)

One fact must have struck the NHRC team, who are trained investigators, one presumes. Where the allegation of an atrocity is refuted categorically by the people in the Dantewada villages they visited, it is on the basis of clear statements, right or wrong. Where its truth is a possibility, the information given by the villagers is vague and uncertain. And the specific information given by displaced people whom the team met across the border in

Andhra Pradesh turns out to be more solid than the petitioners' allegations.

A very clear request was made to the NHRC before its team set out to do the enquiry, that public hearings be held in Eturnagaram and Bhadrachalam, the scheduled area headquarters of Warangal and Khammam districts of Andhra Pradesh, respectively, after giving public notice. The reason is that the severest victims of Salwa Judum have run away to these two districts and there is greater likelihood of the team getting frank views and candid information here than within the sight and hearing of the Salwa Judum across the border. For, those who are left behind in the villages of Dantewada are those who are with the Salwa Judum or those who have decided to live with the Salwa Judum. This, by the way, may well account for a part though not all of the negative views heard by the NHRC team in the villages of Dantewada. There was no response to this request from the NHRC.

However, while a sub-team of the NHRC team visited a few villages in Andhra Pradesh without public intimation, a public hearing was held in Cherla in Khammam district, which is away from the area of the largest concentration of displaced people's settlements in the district, and is inaccessible to those in Warangal. In that hearing the statements of a few of the displaced persons were recorded. The NHRC team may not have realised it, but the people who came before them at Cherla are Telugu-speaking tribes from across the border who are not among the worst victims of the Salwa Judum. The worst victims are the tribal community described as Muria in Chhattisgarh and Gotti Koya or Gutti Koya in Andhra Pradesh. A systematic gathering of their stories would have counter-balanced the views heard in the camps and the villages of Dantewada.

The team had the opportunity of hearing only one batch of them, in the sitting

held at Dantewada on 10 June 2008. People from Nendra who were driven into Andhra Pradesh by the Salwa Judum gave their testimonies, but the report treats their statements with scepticism. This need not surprise any one because even the reluctance of the displaced persons living in wretched conditions in Andhra Pradesh to return to Chhattisgarh is found "intriguing" because the NHRC team believes that the Salwa Judum "is no longer its original self" (which seems to contradict the view expressed elsewhere in the report that the Salwa Judum was always a benign people's movement). Though continued "apprehensions" regarding Salwa Judum are not ruled out as a reason, that obviously does not account for the intriguing character of the reluctance. The real motive is suspected to be that the Naxalites do not want them to go back and be won over by the State and the Salwa Judum. Predetermined conclusions could go no farther.