

Cul de Sac of Rights: Denial of the Rights as a Corollary of Development

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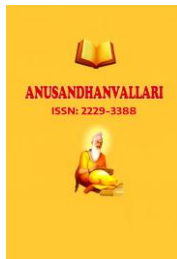
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Abstract: Plachimada is known for the mobilisation of the Adivasis in the Palakkad district of Kerala, who resisted the operation of the bottling unit of Coca-Cola in their village as the company extracted, depleted, and polluted the groundwater in the aquifers, dispossessing them by confronting the people's right to water. The paper aims to provide a nuanced perception of how the dispossession has expunged the constitutional rights of the Adivasis in a developed democracy like India per se Kerala. The study would explain the nature of the neoliberal development discourse and elaborate on the denial of rights by bringing out the interconnectedness of the setting up of the factory and the water stress felt by the Adivasis, leading to the denial of multiple constitutional assurances of the Adivasis of Plachimada. This would be set in the larger frame of how mega developmental projects funded by foreign capital depriving the affected communities of basic human rights like water and all the other rights enshrined in the constitution. The ethnographic data collected from the fieldwork during 2018-19 is analysed to understand how the dispossession led to the denial of constitutional assurance.

Keywords: Right to Water, Neoliberal Development Discourse, Dispossession, Human Rights.

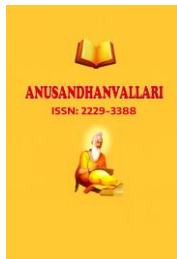
The establishment of the Coca Cola bottling unit at Plachimada in Kerala was a government- facilitated, foreign direct investment programme aimed at rapid industrialisation and enhancement of Gross Domestic Product (G.D.P). Neo-liberalism has reconceptualised the assumptions of development across the world. The countries have resorted to the commodification of the global commons to fuel the emerging economies. The capitalists have grabbed the opportunity to reinvest the accumulated capital to advance profit. They appropriated the common property resources, even at the cost of ecology. Appropriation has been a part of the expansion of capital since the beginning of colonialism. But the contours of appropriation altered drastically in the neoliberal times with the capitalists encroaching into the common property resources, dismantling the life- sustaining mechanisms of the poor. This policy was given a red carpet welcome in India also. The planning and execution of developmental programmes by the government in India in post-1990 witnessed a paradigm shift from the government-regulated mechanism to a market-navigated method, in tune with the spirit of liberalisation. The deregulation and opening up of the markets released opportunities for domestic and foreign capital to invest in profitable ventures in India. Multi-national corporations were invited to set up units with multiple objectives — like enabling capital flow, generating employment, and enhancing technologies.

In continuation of this new policy prescription, the Coca Cola company, which left India during the Janata government in 1979, due to its inability to comply with The Foreign Exchange Regulation Act (F.E.R.A.) norms, re-entered India in 1993 after the inception of the liberalisation policy and started subsidiary units in different parts of the country. Accepting the invite of the Left Democratic Front (L.D.F.) government in Kerala, the company set up a bottling plant in Plachimada in Palakkad district of Kerala in 1999. The company was commissioned in March 2000. But, within a short period of time, the firm allegedly gulped the groundwater resources and depleted and polluted the available surface water resources. This was contrary to the expectations of the people and the promises given by the government about regional development. This paper aims to provide a critical understanding of the way in which dispossession of the Adivasis led to disenfranchisement, as this developmental project ended up in the denial of the education for the Adivasis, where Right to Education is a constitutional assurance, among the many other constitutional rights.



Various studies have approached the Plachimada struggle from different perspectives. C.R Bijoy (2006) has pointed out the gravity of the exploitation of resources by the company and the absence of efficient laws to control it. Ravi Raman (2010) had shown how water based Adivasi movement gradually gave rise to a global solidarity. Rose Mary George (2012) had analysed the case of Plachimada as a movement in the backdrop of globalisation and liberalisation. Pooja Parmar (2015) explained the meaning of the mobilisation of the Adivasis and has given an “outsiders” translation of the whole event. She has explained the legal nuances of the whole struggle. Mangala Subramannian (2017) looked at it as an issue of the privatisation of water resources and attempted to understand the struggle from the perspective of the marginalised. Plachimada is looked upon as an instantiation of the change effected on the Adivasi life by robbing off the common property resources, resulting in dispossession, within the ambit of the expansion of capital in present times. This unprecedented dispossession of the Adivasis had far reaching consequences in different phases of their life. Most of the Adivasis were economically impoverished and as a result were uprooted from the social and cultural roots. The already educationally backward Adivasis were further pushed back when the children stopped attending schools, due to the multiple problems created by the bottling unit in Plachimada.

The concept of land ownership started with the arrival of European colonisers. When the British arrived, they started a huge enterprise of forestry across the country and introduced the idea of property of forestlands resulting in the loss of land ownership for many Adivasis. Prior to the arrival of the British, there was no record of land ownership in India and some of the first pieces of land legislation adopted under British rule remained in use until the 1980s. Independent India has often re-used the schemes put in place by the British administration in its tribal policy. In 1874, the British introduced the notion of ‘Scheduled Areas’ to provide tribals with special protection; by the same token, the Indian Constitution also provides special provisions for ‘Scheduled Areas’. However, one of the objectives of Indian policy since independence has been the protection of its tribal population against land alienation by non-tribals. There are two annexes to the Constitution that deal with indigenous peoples’ land rights, the Fifth and Sixth Schedule of the Constitution. The Fifth Schedule gives special protection to the ‘Scheduled Tribes’ that are included within the territory of the ‘Scheduled Areas’, meaning the eight states that the Constitution officially proclaimed as ‘scheduled’.²⁴ Thus, several states, especially in the south of the country, are not included in the Scheduled Areas even though large *Adivasi* communities inhabit those states. The prime objective of this part of the Constitution is to create special provisions for the development of tribal lands and to prevent their alienation. Within the Scheduled Areas, to protect the Scheduled Tribes, the Governor of each of the eight federal states, who represents the executive, has the power to restrict the application of any legislation of the state parliaments that might apply to Scheduled Areas. The Governor is also in charge of making regulations to: (a) prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in such areas; (b) regulate the allotment of land to members of the Scheduled Tribes in such areas; (c) regulate the carrying on of business as money-lender by persons who lend money to members of the Scheduled Tribes in such area. The other scheme of the Constitution, the Sixth Schedule, a much more complex part, provides for some autonomy to specific tribes of the Northeast. This part of the Constitution is applicable only in the states of Assam, Meghalaya, Tripura, and Mizoram, and reflects the legacy of the history of resistance of the Northeastern tribes towards colonisers. The Fifth Schedule tends to be protective and ‘paternalistic’ as the government oversees any development in tribal lands, whereas the Sixth Schedule is more in favour of self-management. The landmark judgment known as the *Samatha* case Supreme Court clarified the content of the Fifth Schedule of the Constitution by stating that government lands, tribal lands, and forestlands that are included in the Scheduled Areas cannot be leased out to non-tribals or to private companies for mining or industrial operations. *Kerala Scheduled Tribes Act (1975 Act)* which was supposed to restore some of the one million acres of land that are believed to have been stolen by settlers from *Adivasis* over the last century. However, 27 years after the *1975 Act* was passed and despite orders from the High Court, this law has not been implemented. In 1999, the government of Kerala adopted a new law that sought to overturn the

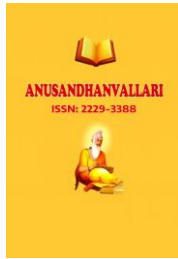


1975 Act. Even though the High Court of Kerala stated that such a law could not legally overrule the *1975 Act*, the government challenged this decision in the Supreme Court in a pending decision that will have serious consequences. In October 2001, an agreement was finally signed that entered into force in January 2002. The agreement guarantees the allotment of one to five acres of land to landless tribal families. This agreement is the result of the new governmental policy based on the idea of providing ‘alternative land’ instead of the ‘alienated land’ to affected groups, transforming its land restoration policy to a rehabilitation policy. Only a few months after the entry into force of this agreement, however, it seems that the promised lands are lands and forest lands dedicated to timber, naturally protected areas, or lands not suitable for cultivation. Thus, the agreement signed by the government appears to be nothing more than empty rhetoric as, legally, the landless tribals would not be able to own the promised lands. In a recent decision, the High Court of Kerala has already intervened in favour of the forest department, as under the *1980 Forest Conservation Act* assigning such tracts of land to tribal populations is illegal, reasoning that those forest lands fall under The case of the *Adivasis* of Kerala points out another fundamental issue in the land rights struggle which is the potential conflict between wildlife protection, forest preservation, and *Adivasis* rights of land ownership.

The government’s reactions have been very poor; when the *Adivasis* sought recognition of their land rights it was denied, when they sought autonomy they received minimal land rights protection, and when they sought self-determination, they received limited autonomy rights. The overall result of land policy towards *Adivasis* in India remains poor. The general policy protecting land alienation is not working, policies governing the return of territory have so far failed, and there is no adequate policy of rehabilitation. Generally speaking, land legislation has remained patriarchal.

The state made the people believe that foreign capital would usher in development into the village. The red carpet welcome accorded to the company by the Communist Party of India-Marxist (C.P.I.M.)-led government in the state strengthened the belief that foreign capital could facilitate regional development. The state explained that the revenue of the panchayat would go up and it would give more fillip to the future developmental projects. The state-centred developmental propaganda claimed that poverty would become a thing of past, once industrialisation gains momentum. The mothers of Plachimada dreamt of their children working in factories in their village itself, as it would be developing at a fast pace, putting an end to their woes and their endless journey to garment factories in Coimbatore for employment. They believed that this will further motivate their children to study well and climb up the societal ladder and gain more social mobility. The promise that the dawn of modernisation would ensure quality education, health, and improved sanitation facilities in their habitat, as well as the promises of development that would trickle down, caught the imagination of the villagers. The small and medium land-owning community believed that the price of land would go up as a result of urbanisation, making them prosperous. In addition to that, the people also believed that the opportunities unleashed by urbanisation like the prospects of new commercial establishments could be great. The *Adivasi*’s and Dalits dreamt of getting regular employment in the factory. The majority of the population was initially happy, under the euphoria whipped up over the discourse of development.

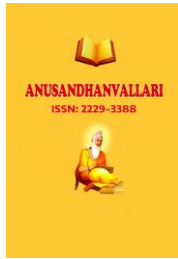
However, a small section was sceptical about the promises given (Bijoy, 2006). The shift in industrial policy was justified by citing the critique of the ‘Kerala model’ of development indicating the inability of the state to generate revenue to sustain the development matrix that it had achieved. This change necessitated attracting industries and making a favourable atmosphere for the smooth flow of domestic and foreign capital. To facilitate this, the state resolved to address the issues of labour militancy, resistance to procurement of land, and relaxation in labour norms. Along with this, the privatisation of production and service sector got an aggressive push. The state industrial policies of post-1990s were designed to make provisions for mechanisms to implement this shift in policy.



Plachimada, a village in Perumatty panchayath in Palakkad district, is a locale with relatively higher number of SC ST population. The people of the locality depended on agriculture for livelihood. The labourers in the paddy field were employed for Rs. 80/- and Rs. 50/- per day for men and women respectively. They used to get approximately 200 days of work a year. The Adivasis of Plachimada are early migrants from the neighbouring Coimbatore who settled here 30 years back. They were employed as labourers in the paddy fields and coconut plantations. Despite being a rain shadow region, Plachimada's ground water reserve was well enough to sustain the local population and agriculture. The Adivasis of Plachimada used water from the open wells for domestic and agricultural purposes. Though located in a rain shadow area, satellite pictures had shown the groundwater accumulation in Plachimada (Bijoy, 2006). People depended on open wells for domestic as well as agricultural purposes. Plachimada's development indices were below the Kerala average. The government support extended to them was limited to a Lower Primary school and a Primary Health Centre (P.H.C). They had access to a limited medical facility in the form of a physician in the P.H.C. The Coca Cola company was set up on 34.64 acres of land--which included a multi-cropped paddy field—procured with the support of local and the state government. The state promised rapid development and employment opportunities for the local people at the time of the commencement of the factory in March 2000 to win the confidence of the native population. The commencement of the factory signalled a shift in the government's approach towards development in favour of private and global investors, in a state which resisted this for a long period of time. The company easily secured the clearances from Kerala State Pollution Control Board, and district administration by using a state industrial promotion initiative to lure the potential investors like single window mechanism, initiated by the government of Kerala. But the company secured all the licences allegedly without fully complying with the prescribed norms. Two years after the commencement of the factory when people protested over the pollution and the issue was brought before the judiciary, the Pollution Control Board repeatedly asked the factory to install the reverse osmosis system shows that it was not properly installed when clearances were secured / granted.

The life of Adivasis had turned far worse than what it was earlier. They cannot keep the food prepared in the polluted water for long. Children who carried lunch boxes from home returned without having lunch, for the food became stale within a couple of hours, thanks to the poor water quality. The frequent use of the water resulted in rashes all over the body. Diarrhoea and hair fall became common among the tribal habitats and children complained of irritable bowels and burning sensation in the eyes. The misery and discontent of the Adivasis forced them to take up a fight against the company. Late Velloor Swaminathan explained the rationale of the agitation: "It is a new experience for us that water has become a market commodity. It is alien to our habits. To sell bottled water is unjust and anti-nature" (Vasudevan, 2005). This conviction drove the local people to embark on an agitation. They lodged a petition with the Panchayath, district, and the state administrations. Yet the narrative of the life experience of the Adivasis and their complaints were rejected and all the agencies supported the company, following the line of global managerial reasoning. The contradictions in the promises given to the people and the real experiences were evident in the words of late Mylamma, the leader of the struggle who said: "They came to our village with glittering offers; that our people would get ample job opportunities in the plant; the overall development of the village would be taken care of...On the contrary, six months went by, slowly we started facing the reverse effects. Our precious water resources had been stolen." (Vasudevan, 2005).

Initially, the land-owning class declined to support the Adivasis and Dalits. The situation further deteriorated within a period of one and half years, as the water table went down significantly; the available water became polluted and the slurry from the company deposited in the fields as fertiliser reduced the productivity, and it destroyed the farming community. Later, it was identified that the slurry contained lead and cadmium in it which affected the fertility of the soil. This further reduced the employment opportunities in the paddy fields. People from all sections of society started listening to the agitators and came up in support of the historic



struggle. The depletion of water and the pollution of the paddy fields and the loss of employment resulted in the dispossession of the Adivasis and Dalits. In spite of the staunch opposition of the state agencies and mainstream political parties, the movement succeeded in closing the company in 2005.

The critique of the Kerala Model of Development identified the pitfalls of the prevailing strategy of development and welcomed foreign direct investment for the development of the state. But within a short span of time since the commencement of the factory, adverse effects like depletion and pollution of water became visible and the poor people of Plachimada had to fight the big company who came there to rescue their state.

The Adivasis started protesting against the company by organising a demonstration in front of the Panchayath office under the leadership of Mayilamma. Within a short period of time, environmental activists extended support to the agitation. On Earth Day in 2002, the Adivasis started a non-stop sit-in before the company demanding its immediate closure. The struggle initiated by the Adivasis grew into a movement as it could attract the attention of civil society groups and environmental activists. The Adivasis' struggle gained momentum and it became a movement against dispossession. The company resorted all the means to crush the agitation.

Pazhanaanthal, a housewife of Plachimada colony, who participated in the agitation against the company said,

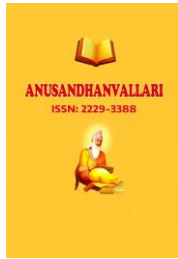
We used to get enough and more water from the wells of Aaruchami Kownder, the tenant for whom she worked as labourer. We also used to take water when he switches on the motor to pump water to irrigate the coconut plantation. But after the company's arrival, some of the wells have dried up completely and the water in the remaining wells was spoiled.

The Adivasis of Plachimada were forced to depend for water also. A resource which was freely available was restricted all on a sudden when the region turned to a water stress region. Kanniyamma's narration of the premature death of her grand son who was born "without kidneys" was alarming. The rumours that the constant touch with polluted water could be a reason was a scary thought for the community. The inability of the administration to clarify this doubt further alienated the community. The daily travails of their existence was described by Amaravathy of Plachimada colony, who strongly felt that the company destroyed the soil, said:

The food we prepared began to give off a foul smell within two hours of cooking, and the porridge had lost all the flavour it had earlier... We couldn't give this food to children when they go to school... They stopped taking food to school.

The children either stopped or became irregular in schools as education is not a priority when the survival of the family itself is questioned. The medical aid available in the village also vanished when the only physician in the village was hired to look after the company's employees. The Adivasis' life, which was heavily dependent on common property resources, was devastated within a short span as the ecosystem services like the provision for food was disrupted. The sudden change in the quality of water and its impact on nutrient cycling further impoverished the Adivasis and Dalits.

The experience narrated by Amaravathy shows how the health of an already backward community was affected by the polluted water and the consequences of which on their educational and social prospects are disastrous. All the efforts made to educate and uplift them were obliterated by the pollution of water. The reports published by the N.G.O. Jananeethi has cited this as a reason for the ill health of the children of the locality. Thankavelu, son of Mayilamma, said "We suffered a lot...the contact with the water resulted in losing hair and itching in different parts of the body". The administration was hesitant to listen to them initially, but by the time, the medical reports testified that prolonged use of the polluted water would cause



the dermatological problems, it had already done the damage of destroying the very little the Adivasis had. The youngsters of Plachimada narrated how the police resorted to brutal lathi charge when they participated in the agitation. The company allegedly employed local goons to physically handle the youngsters. Muthulakshmi, a resident of Plachimada colony, complained that the agents of the company had beaten her husband up and threatened to demolish their house. She said,

Because I sat in the pandal, they told me to stop doing it. When I said no to them, they physically attacked my husband and threatened to destroy my house. They also threatened that cases would be filed against us.

The use of physical force to silence the Adivasis was very clear in Plachimada. Veluchami, who believed that the state betrayed them described the double oppression as,

...due to the scarcity of water, farmers stopped the practise of planting two crops in a year. Thus, the working days dwindled. Nobody from our family was employed in the factory also.

The decreasing number of working days had added to the misery of their existence. Neither the company nor the state could deliver any of the promises of more employment opportunities, an increase in the income of the people, and the rapid development of the region. Contrary to this, water—a common property resource—was depleted and polluted within a short period of time. The health standards of the people declined and the villagers have to walk kilometres to fetch a pitcher of water.

The soft drink company operated only for five years in Plachimada. Within that short period itself, it guzzled the groundwater and made the people in the neighbourhood suffer water stress. The operation of the company not only reduced the existing employment opportunities but did not also create any substantial avenues for the people of the locality. The acquisition of the land for soft drink plant in Plachimada did not trigger any protest, but the peril of ‘enclosure’ was felt by the Adivasis when the company, initially, erected a huge compound wall, converting it in to an access- restricted area. The impact of it on the livelihood strategy is evident in the following statement of Aamina, a non Adivasi native of Plachimada colony, when she said,

Earlier we used to rear grace goats in this area. Now a huge wall has been constructed. Even if we get in, the security personnel threaten us of dire consequences. Now, where shall we go to rear our goats?

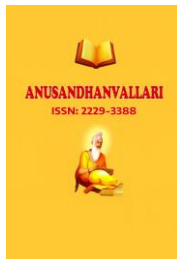
The livestock rearing felt the initial impact as the villagers couldn’t take their goats and cow to the restricted premise. The huge compound wall dissociated the company from the local people. The wall had also affected the livelihood of those who collected herbal medicines from the area to be sold in the market.

The story of a pond being converted to a junkyard by the company illustrates the mindless activities of the company. Hamszaveni, a native of Plachimada, told the researcher,

There was a pond here...where we used to take bath. But it has been filled and they expelled us from here. Now we walk miles to get a pitcher of water.

When the women of Plachimada walk three miles in the morning to get water, the enclosure and subsequent destruction of the water sources shows how life has been impacted by the actions of the company. The opening up of land for commodity production pushed the Adivasis from the land. This process of ‘Neo enclosure’ (De Angelis, 2001) pushed the Dalits and Adivasis of Plachimada into a small area where they could no longer carry out their livelihood strategies. The process of enclosure not only implies the separation of the rural poor from their means of production, but it also results in squandering of natural resources that affect the present and future generations (Araghi, 2010).

The company constructed some of its buildings after filling the paddy fields. The Adivasis of Plachimada were employed as casual labourers by the contractors for the construction of the buildings. The authorities



conveniently ignored the violations of the existing norms and regulations in the construction of the factory. After setting up the plant, the company hired labourers from different parts of the country. They employed only two people from the locality. The rest of the work was given on a contractual basis. The contractors—most of them the local leaders of various political parties—employed a few Adivasi women from the locality. The promise of ‘decent’ employment was not kept as the contractual workers were not entitled to any privileges and had to work long hours for low wages. Those who raised questions were met with iron fists. The disillusionment of the people in Plachimada is clear in the words of Ambika, a native of Plachimada colony, who was one of the ring leaders in the initial stages of the protest, when she said that,

...the dream of our children working in Plachimada itself...either in the cola company or in the companies that were expected to come after Coca Cola did not materialise. Our children continued to go to the cotton mills in Coimbatore and our misery only doubled.”

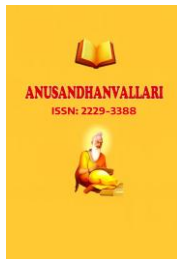
The state agencies, instead of providing assistance to the citizens, adopted measures to silence the workers. The people who demanded higher wages were either sacked or threatened by the contractors. The attempt to form a trade union was foiled and a company-sponsored trade union was formed. The mainstream political parties played hand in glove with the company in this process. The state, in this way, facilitated the plunder of natural resources and left it to the company to commodify and later to upgrade and speculate. This resulted in the appropriation of water which in turn impoverished the Adivasis further. The company, in its attempt to convert natural capital into economic capital, was unmindful of the ecological disaster it created.

The insensitivity of the corporation and their utter neglect of the native people are evident in the fact that While Plachimada reeled under acute water stress, Studies have revealed that the company wasted two litters of water for making one litre of aerated drink. In addition to this, the waste water was released to the paddy fields. For the bottling plant, any attempt to bring down the environmental cost would increase production cost and reduce profit. In Plachimada too, the company installed a reverse osmosis system only after the intervention of the Supreme Court of India. But the environment had been polluted by that time. It is to be assumed that the company was indulging in all those practices fully aware of the impending environmental catastrophe.

The study of Hazards Center (2006) New Delhi identified the presence of a heavy concentration of cadmium, chromium, and lead in the water samples collected from Palchimada. The center found that the water sources were contaminated and revealed that even if a human did not consume the contaminated water, the hazardous chemicals could still make their way into the human body through food chains. It also warned that the chemicals that entered the human body and will be biomagnified, causing more harm in the long run. The report highlighted all the hardships that the community had to endure. Some of the wells dried up and in some others, water became hard and unpotable. The men and women, who used to work relentlessly under the scorching sun, reported fatigue and inability to engage in hard labour, Instances of miscarriage among women in the locality and cases of weight loss of among children showed an increasing trend. The mothers had to walk kilometres in the morning to get water. Ever since the governments have adopted liberalisation as a key strategy, the companies are competing to reduce the cost of operation and further their profits. These developmental assumptions of liberalisation have aggravated the dispossession of the marginalised people.

The pollution and depletion of water drastically altered the cultural sphere of the Adivasis and Dalits existence. The continuous police barricade in the village imposed restrictions on the community. They had to obtain prior sanction for festivals, which was quite difficult to get at that time. Sakthivel, a native of Plachimada colony said,

Police will ask a lot of questions about festivals and compel us to give answers in writing...If it is not given, permission will be denied.”.



The sense of security villagers enjoyed was lost as the company employed local goons to threaten the Adivasis and Dalits in a bid to weaken the struggle. The children of the protesters were allegedly attacked in their homes when the mothers were away in search of water. Muthulakshmi, a native of Plachimada said,

They had beaten my husband without any reason.... They attacked my house, pelted stones at night to frighten us...But we continued our fight against the company". A brutal police force was unleashed to suppress the struggle.

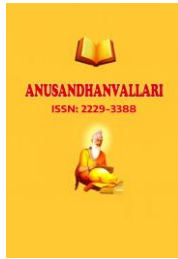
The state, instead of protecting the Adivasis and Dalits, used brute force to crush the struggle. The marshy lands of Plachimada dried up and the number of working days in the paddy fields dwindled. A lot of reports including that of Jananeethi demanded the closure of the company and compensation for the damage it caused to ecology. But the company ignored all those reports and continued its operations, shattering the livelihood means of the Adivasis and Dalits which reflected the patronage the company enjoyed from the state at the cost of its citizens. The angst in the words of Kanniyamma echoes the miserable condition of dispossession experienced by the Adivasis of Plachimada when she said

we were poor, but now, we have lost everything. Our children are perpetually sick, every day we have to take them to hospitals, they have stopped going to school. Men are unwilling to marry girls from our oors (tribal hamlets) as they fear that children will have no kidney..."

The narratives of the Adivasis, undoubtedly proved that they were practically denied the right to life, the access to clean water, the right to education and above all the basic human right. Development by the State has resulted in the disenfranchisement of the already poor Adivasis. When the rich and powerful are able to manage the affairs, the poor are left without any support making them extremely vulnerable. Neoliberal development strategy has led to the complete erosion of the rights of already poor and dispossessed in ways that are unimaginable, as experienced in Plachimada.

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