

FROM GRAMA SABHA TO STATE HALL: REIMAGINING THE AGENCY OF THE PANCHAYAT IN THE PLACHIMADA STRUGGLE

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Abstract

The mobilisation of the Adivasis and Dalits demanding the closure of the bottling unit, against the massive extraction and desertification of a locality in Palakkad district in Kerala is known as the Plachimada struggle. Though the agitation was spearheaded by the Adivasis, over a while, the mobilisation garnered the support of civil society organisations, local, national and international. The agitation against the Primitive Accumulation of capital and the Dispossession of the marginalized sections by the HCBPL plant began in late 2000. It continued even after the shutdown of the plant in 2005. The agitation continues even today in a modified manner. The paper examines the role played by the local self-government in the Plachimada struggle. The commencement of the plant and how the extraction of water was facilitated by the Panchayat, on behalf of the State. The people's mobilization forced Panchayat to retrace its position. It later argued for the water rights of the people and filed cases against the Company as well as the State. Panchayat was forced to raise questions, which emerged as Counter-Narratives about the feasibility of the prevailing development discourse. The paper aims to trace the evolution of the position of the Panchayat from the commencement of the bottling unit to today in shaping the course of development praxis in Kerala.

Keywords: Primitive Accumulation, Dispossession, Extraction of water, Water rights, Counter Narratives, Discourse of Development.

Introduction

The collective protest of the Adivasis in Plachimada against the bottling unit began in April 2002 and continued through 2006. Over some time, the agitation started by the Adivasis demanding closure of the bottling unit evolved into a struggle with the broad aim of bringing justice to the community and ecology. The struggle continues even today in different ways, as the significant demands have not been met yet. Satheesh Chandran, a scientist brought the first fact finding report on Plachimada. The INTAC Report, which explained that 700 people in Plachimada, Vijaynagar, Madhavan Nair colonies of Perumatty Panchayat and three colonies named Rajeev Nagar, Kambalathara and Thodichippalli in Pattancherry panchayat were forced to drink stinking polluted water. This report came out in March 2001.

Different dimensions of the Struggle have already been analysed. The available studies on Plachimada are on issues related to water contamination, exploitation and allocation of rights. They discuss people's livelihoods, mobilisations, and on gendered impacts of water scarcity. Aiyer. A (2006) has argued that while Plachimada is an example of the state collusion with the capitalists, it also reveals the lacuna in the legal system and the inadequacy of India's archaic water laws, all of which together have contributed to the agrarian crisis in India, after the liberalisation policies of the 90s. Bijoy's (2006) analysis highlights the absence of efficient laws regarding the allocation of water rights and the state's unwillingness to act against the interests of capital. Nair, et.al (2008), in his study, points out the mismatch between expectations and the ground reality. Pointing at the collusion of state and capital, the study by Pillai (2008) pointed out that the state and capital worked in unison to protect the interests of the capitalist class, taking narrow and parochial decisions. Sitisaran (2012) supplemented Pillai's argument by highlighting that the neoliberal ecosystem in India is conducive for Coca-Cola as it provides low-priced raw materials, cheap labour, the absence of mechanisms to regulate the companies, and the corrupt system. In short, the physical and ideological conditions were favourable for the flow

of capital. George (2012), in her study, points out the impact of globalisation on Common Property Resources (CPR) concerning water rights in the background of the Plachimada and Sheonath rivers in Chhattisgarh. Sheonath is the first privatised river in Chhattisgarh. While offering an excellent comparative reading of the water struggles in Plachimada and Sheonath, George (2012) identified that the demographic features and the social and economic condition of the Adivasis of Plachimada had doubled their misery. Further, she identifies the emergence of a particular trend in Indian politics. According to her, the silver lining is that this agitation points towards the emergence of new politics around resources in contemporary India. She says that “it is improper to view the grass root-based movements in Plachimada... as mere protest movement or local uprising... these struggles herald the emergence of certain new trends in Indian politics (George, 2012, p. 229) like the access to water had become a political and electoral issue, and the resistance to the commodification of it is justifiable.

Berglund (2015), citing the political participation of the Adivasis and Dalits in the Plachimada struggle, observed that a renewed sense of awakening had enabled them to stand up and question the injustice meted out to them by mainstream society. The study argues that this new political consciousness gained through constant interaction with civil society groups has increased political participation, increasing the visibility of Adivasis and Dalits. The neoliberal reorganisation has pushed the poor and the marginalised to the fringes. Shree (2014), in her comparative study of Plachimada and Tarun Bharat Sangh, analysed the factors leading to the struggle and pointed out that institutions like International Monetary Fund and World Bank, with their policy prescriptions and associations like World Water Forums, have re- conceptualized the idea of water, which precipitated the struggles of the indigenous communities around the world. The core of the policy prescriptions by these agencies are justifications for privatising the commons in the name of protecting it.

Commenting on the attempt to privatise water, Shree, in another article (2010), says, “... one can see how industrial usage is given priority over the livelihood issue by the state government. It not only created problems for the local people but also set precedence for river privatisation” (p. 18). All these studies point out that the monetisation and commodification of water have created the tragedy of commons in Plachimada. In a study different from the above ones, Parmar (2015) attempts to provide an outsider’s perspective on the Adivasis struggle in Plachimada, noting that the contextually situated meanings and their constant fluctuations are understood differently by different people. Her study sheds light on the transformative power of the meanings of water in contemporary times. In contrast, Subramanian (2018) concentrates on the specific decision-making processes about water and attempts to understand this from a location of the marginalised and poor; the racial minorities in Stockton in California, USA and the women in Plachimada. Through a comparative study, she demystifies the assumption that private corporations will manage water better with their expertise and technology. Quoting water activists, she states, “Private companies have no incentive to conserve water because the more water they sell, the more money they make” (Subramanian, 2017, p. 153). She argued that these pro-market policy prescriptions hit marginalised populations hard, turning development and justice into paradoxical entities. She concluded that “the lack of power for the marginalised groups and ordinary citizens impacts what we refer to as environmental justice; the fair access to decision-making process and resources as belonging to all” (Subramanian, 2017, p.163). She is correct in pointing out that the increasing distance between power centres and marginalised lives detrimentally affects the latter. The water table in the wells of the Adivasi colonies had receded considerably within six months after the commencement of the factory. People observed a discolouration and a foul smell in the water. The food cooked using the water became stale very quickly. The daily use of the contaminated water resulted in rashes all over the body of the residents. Agricultural productivity gradually declined. The Adivasis realised that the newly established bottling unit had precipitated the unprecedented change. Alarmed, the Adivasis initially informed and later complained to the authorities. On repeatedly raising complaints by the Adivasis, the then Nellimede ward member demanded that the company provide clean water to the Adivasis. Though the company initially expressed willingness to provide drinking water to the Adivasis, it soon retracted from its promise.

The Adivasi life became miserable, and they organised a protest against the company. Many organisations assisted them to raise their protest. Adivasi Samrakshana Sangham and Adivasi Oorukkootam are in every Adivasi oor, including Plachimada. When the pollution and depletion of

water became intense, the Adivasis formed The Adivasi Samara Samiti. They made the initial preparation for an agitation against the bottling unit. When the non-Adivasis came to support the agitation, a broader collective called Coca Cola Virudha Samara Samiti (Anti Coca-Cola Struggle Committee) (hereafter CVSS), including non-Adivasis was formed to support the Adivasi Samara Samiti. Vilayodi Venugopal, an anti-alcohol activist and Velloor Swaminathan, an Adivasi youth, became the leaders of CVSS and Adivasi Samara Samiti. Late Mayilamma, aged 59 during the struggle, became the prominent leader. She came to Plachimada after her marriage, lived in the Plachimada colony, and worked as a daily wage in the paddy fields of the jenmis (landlords). The Adivasi Samrakshana Sangham and Orrukkootam continue to be there even today.

The Adivasis started a soochana samaram (warning strike) before the bottling unit in February 2002. As the Adivasis protest started gaining support, the police became vigilant. Vilayody Venugopal reported that people's movements in the locality were carefully monitored. A march was organised to protest the police action against the Adivasi men fishing in the Kambalathara reservoir. On 7th June 2002, the Adivasi Samara Samiti rallied 500 people to protest against the Cola plant. As the news about the miserable life of the Adivasis was published in newspapers like Madhyamam and Mathrubhumi, the problem came to the notice of various activists. The writer, social activist and researcher C.R Bijoy visited the village and undertook a preliminary water test in a private laboratory. The water test conducted in Sargam Metals, Chennai, proved that the water in the wells in the Vijayanagar colony was polluted. Based on the lab report, the Adivasis lodged a petition to the District Collector, Kerala State Pollution Control Board (KSPCB), Human Rights Commission and Chief Minister on March 20, 2002. Despite the complaints, the KSPCB extended the sanction given to the company up to December 2004 without making any further investigation.

As the authorities did not take the soochana samaram seriously, the Adivasi Samara Samiti started an agitation. They prepared an action plan to create a continuous dharna (sit-in) before the company. The Adivasi Samara Samiti raised the issue of water pollution and scarcity. The non-stop protest dharna before the bottling plant was organised by Velloor Swaminathan, the General Convenor of the Adivasi Samara Samiti, along with Vilayody Venugopal, a social activist. There were demands from the Adivasi youth for a violent mode of protest while planning the course of the agitation. But the Adivasi Samara Samiti advised the Adivasi youth about the importance of a non-violent protest. They also explained how the MNC and the government would use a violent protest to build public opinion against the agitation.

The Adivasis constructed a samara pandal, a thatched shed, on the opposite side of the road, in front of the company. The Adivasi Samara Samiti decided that the daily wage-earning women would sit in the samara pandal throughout the day, protesting. They would prepare kanji (gruel rice) inside the pandal and shout slogans. Late Mayilamma led the women who decided to sit in the samara pandal marking their protest. The sit-in before the factory began on 22nd April 2002. CK Janu, the leader of Adivasi Gothra Sabha, a collective agitating for land redistribution to the tribals in Kerala, inaugurated the strike. She demanded the immediate closure of the bottling unit and action against it as per the polluter pays principle. The Adivasi Samara Samiti convened a meeting of the political parties to garner support for the agitation. No political party from the mainstream except CPI participated in the discussion on May 26, 2002. By this time, the water level in the wells in Plachimada, including the one in the company premises, had dwindled substantially. The Cola plant had started procuring water from the adjacent areas. They hired 50 tanker lorries which could carry 12000 litres from nearby places. The district leader of the Karshaka Samajam of CPI (farmer's group) has confirmed the researcher's question regarding the allegation of the sale of water. He said, "While the people in the colonies faced acute water shortage, another group sold it to Cola for quick cash. They got Rs. 500/ per tanker, and water was extracted from nearby wells round the clock" (Muthalamthode Maani interviewed on 20 July 2018).

The Adivasis intensified the agitation, creating a blockade before the Cola plant's gate. Meanwhile, the report implicating company by Jananeethi came out in June 2002. The Jananeethi Report highlighted the challenges the Cola plant poses to people and the ecology. The report revealed

that the HCBPL authorities were unwilling to cooperate with the investigation team and clarified that the factory was responsible for the depletion and pollution of water. They concluded the report by raising pertinent questions about the Cola plant's land conversion, the use of generators inside the company, the amount of groundwater used, and the effluent treatment plants in the bottling unit. Though the questions were unanswered by the HCBPL authorities, the public first got a glimpse of the violations done by the company. The three initial reports confirmed the company's role in precipitating a local water crisis. As these reports and the agitation of the Adivasis were reported in the local newspapers, more people started supporting the cause.

The Adivasis strengthened the agitation by marching to the panchayat office, demanding an immediate closure of the bottling unit. They sprayed cow dung on the panchayat premises as a form of protest. On 8th June 2002, the next day, The Employment Protection Samiti, an employee's organisation with political support, organised a mass meeting in which the representatives of all mainstream political parties, including CPM, INC, BJP and Janata Dal, participated. The Employment Protection Samiti argued that the effluents in the factory were not dangerous and that the company was not responsible for the pollution of the wells. They also issued a press statement. On the 4th of August 2002, the Adivasis organised a march of 1000 people to the panchayat office, protesting the lukewarm response of the panchayat. Meanwhile, the Kerala Legislative Assembly enacted a law regulating groundwater use. Later, the District Dy. The Medical Officer of Palakkad, following a visit on 2002 August 24 to Plachimada, reported that the water in the wells in Vijayanagar had been polluted. But the report absolved the company of the responsibility by claiming that discolouration and odour of the water were due to the non-usage of water. As a series of reports implicating the bottling unit came out, the company commissioned a study.

In the report by Attawale, a scientist at National Geophysical Institute in Hyderabad, it was explained that the water level had not decreased and that there was no discernible connection between the functioning of the bottling unit and the decreasing quality of water. The Adivasi Samara Samiti protested against this report and published a rebuttal against the report's findings. The Ground Water Authority (GWA) too stated in November 2002 that there was no evidence to prove the culpability of Cola. The Adivasis marched to the Ground Water Authority office in Palakkad, questioning their position. The Achuthan committee, appointed by the Yuvajanavedi, in its report (2002), identified the absence of any mechanism to observe the plant's functioning and measure the amount of water extracted by it. The report identified that the Cola plant in Plachimada and pepsi plant in Chullimada was responsible for water pollution and depletion and created environmental hazards.

While a series of studies came into the public domain, the Ground Water Authority (hereafter GWA) in January 2003 revealed that the water level in four wells of the 20 they inspected had gone down. In a couple of them, the water quality had deteriorated. They also revealed that the company had not approached them for any approval before the setting up of the plant. After a sitting in Palakkad, a Legislative Committee under the leadership of Mr George J Matthew expressed anguish over the fact that the extraction of groundwater in Plachimada might lead to drought in the area in the future. But they ruled out all the other allegations against the company. They requested the government to appoint a national-level committee to undertake a scientific study of groundwater use. At the same time, the Adivasis intensified the agitation, and the number of visitors to the samara pandal increased. People from all walks of life- students, youth organisations, professionals, and environmental activists visited the pandal to express solidarity. Meanwhile, the Medical Officer of Perumatty panchayat informed the authorities by quoting the test result of the regional laboratory that the healthy water was polluted.²⁸ But the report absolved Cola of responsibility. The social activist who coordinated the movement commented on this report that "all the government machinery is working for the well-being of Cola now. They have understood the problem, but they don't know the reason" (Venugopal. V, interviewed on 25 July 2018). The agitation by the Adivasis had brought the issue to the limelight, as reported in all the newspapers. As the strength of the agitation was felt, more people from civil society came to support it, and politicians were forced to retract from their earlier position of blanket support for the company. But the state continued its support for the company.

However, the state secretary of CPI (M), on February 7, 2003, demanded that the company stop functioning immediately. A state leader of the CPI absolved the then government of providing a license to the company. In a reply given by HCBPL to Perumatty grama panchayat on 18 September 2003, the company revealed that the state of Kerala had released a sum of Rs. 20 lakhs as state investment subsidy by the industrial policy of 2001 to show the support it received from the state. As the license given by the Perumatty grama panchayat ended on March 31, 2003, the panchayat decided not to renew the license on April 7, 2003. The panchayat also served a show cause notice on 9th April 2003 demanding an explanation for the damage caused. Despite these, the company continued its operations. Instead of giving a reply, the Cola approached the High Court in April 2003, questioning the legality of the notice issued by the panchayat. On April 22, 2003, the Kerala High Court asked Cola to reply to the panchayat and maintain the status quo until the panchayat took an appropriate decision. The company replied on 30th April 2003 that they were denied natural justice as they were denied a hearing by the panchayat before the cancellation of the licence. The Perumatty Primary Health Center officials, on May 13, 2003, informed the panchayat President that the water in three wells adjacent to the Cola plant was polluted. Based on the report, the Panchayat Secretary cancelled the licence on May 15, 2003, rejecting the reply given by the company. When Cola approached the court again, the Kerala High Court on May 16, 2003, directed the Cola to approach the Local Self Government Department (LSGD), the apex body of the panchayat to review the order of the Panchayat Secretary. The company approached the LSGD questioning the authority of the panchayat to take decisions. The LSGD, on June 12, 2003, stayed the order of the Panchayat Secretary.

Meanwhile, Medha Patkar started the Ayodhya March from Plachimada on January 26, 2003, bringing the issue to the national limelight. The Adivasis created a blockade before the Cola plant's gate to intensify the agitation. But the police forcibly removed the agitators. They filed cases against the women who created the road blockade. Some of the women were arrested and later released. Those released were made to visit the police station daily for a week. They were also threatened that cases would be filed against them if they continued to disrupt the functioning of the bottling unit. While the agitation strengthened, the ministers and government officials openly defended the Cola. For instance, the Minister for Industries in Kerala stated on the assembly floor on August 4, 2003, that the state favoured companies like Coca-Cola and would not oppose it. On August 19, 2003, the Adivasi Samara Samiti organised a march with Kuttichool (coconut brooms) to the office of the Chittoor MLA, protesting his pro-Cola stance. Sensing a loss of public support, he visited the pandal the next day and declared solidarity.

In the meantime, the Center for Science and Environment (CSE) published its report on June 5, 2003, announcing the presence of pesticides above the permissible limit in Cola products. After the intervention of Medha Padkar, the agitation gained national attention for a second time with the publication of a CSE report and the broadcast of a BBC Radio 4 programme. In the BBC Radio 4 programme Face the Facts, John White reported the result of the laboratory test conducted at University of Exeter, revealing that the slurry distributed by the company as fertiliser to the peasants contained lead and cadmium in it. The enquiry conducted by KSPCB ratified the findings and reported to the Health Minister on August 7, 2003, that the slurry contained 201.8mg/kg cadmium which is entirely above the permissible limits.

Subsequently, the KSPCB directed the company to stop distributing the slurry as fertiliser to farmers. A parliamentary Committee was constituted on 22nd August 2003, under the chairmanship of Mr Sharad Pawar, to look into the quality of soft drinks. The grama sabha meeting convened on September 12, 2003, demanded the factory's closure and compensation to the affected people. The Adivasi Samara Samiti marched to the office of the GWA Palakkad, protesting against the GWA report favouring Cola. The Adivasi Oorkoottam (collective) of Plachimada passed a resolution on September 14, 2003, demanding the company's closure and initiating prosecution. The Perumatty grama panchayat issued a second show cause notice to the company. The panchayat cited violations like using motor pumps without getting sanction, converting paddy lands, and irresponsible waste management leading to health and sanitation issues for the people of the locality. The panchayat justified its right to initiate action against Cola plant as it was bound to protect the people.

In September 2003, two reports on groundwater were published. The central government report (CPCB) focussed on the general availability of groundwater in India, and the state government (KSPCB) focused on pollution and depletion of water in Plachimada. Meanwhile, the KSPCB slightly modified its position on September 29, 2003, by issuing a public statement that cadmium found in the slurry did not threaten life. However, it advised the Cola plant to stop giving the slurry as fertiliser as it had to be used with “caution”. The company approached the court again against the second show cause notice of the panchayat. Replying to the panchayat³⁶, Cola argued that the case was pending before the LSGD and alleged that the decisions by the panchayat were in haste. Further, the company reiterated that the panchayat had no right to demand an explanation. They also alleged that the panchayat went contrary to the spirit of the industrial policy and predicted a potential slowdown in the industrial growth of Kerala. As per the Appeal Disposal Order of LSGD, the Secretary of LSGD ordered the constitution of a committee comprising members from GWA, KSPCB and the Health Department to inspect the matter and the findings to be shared with the panchayat before taking a final decision. Suspecting delaying tactics, the panchayat petitioned against the LSGD in the Kerala High Court. The KSPCB retracted from their earlier position and informed the panchayat that the water in the wells of the Vijayanagar Colony was polluted. The investigation of CPCB, at the request of the Joint Parliamentary Committee (hereafter JPC), revealed that cadmium in the slurry was 338.8 mg/kg. The Kerala High Court, on November 14, 2003, rejected the plea of the company and accepted the petition filed by the panchayat against LSGD. The company immediately approached for a review of this order on the same day. In response to the petition filed by the panchayat, the single bench of the Kerala High Court pronounced its verdict on December 16, 2003, upholding the Public Trust doctrine. The judgment observed that a single player would have no right to extract commons, and the government was only a trustee with no right to permit a company to take water. However, the court asked the panchayat to keep the factory closed if the latter could not find other water sources. In continuation of the LSGD directive to constitute an Expert Committee, the High Court entrusted the Center for Water Resource Development and Management (CWRDM) at Kozhikkode with the task of enquiring about groundwater availability in Plachimada. While this happened, the Coca-Cola advisory body headed by former Cabinet Secretary Naresh Chandra decided to constitute an India Environment Committee on December 16, 2003, with the former Chief Justice of India B N Kripal as Chairman. This committee was entrusted with the duty to oversee environmental issues related to the functioning of the Cola. The committee remained only on paper and did not develop any solutions.

The Adivasi Samara Samiti demanded that the judgement of the single bench of the High Court of December 16, 2003, be followed. They urged the state to act according to the judgment's spirit. Meanwhile, the member secretary of KSPCB, who reported the presence of cadmium below the permissible limits, had to face the wrath of Yuva Janatha Dal activists with a garland of empty Coca-Cola bottles on December 27, 2003. The Subject Committee of the Kerala Legislative Assembly accepted complaints about the functioning of the plant at Thiruvananthapuram on 29th December 2003. The company was believed to have hired some people to provide favourable opinions before the committee. News that the company had organised a free tour to Trivandrum in a chartered bus erupted into a controversy. Tension erupted in the committee sitting when the protestors asked about the authenticity of the people attending the sitting. The samara samiti questioned the legitimacy of the people attending the meeting and protested against it. Hence the committee sitting ended without any outcome. All these were reported in the media in detail during that period.

The struggle gained national attention as the Anti-Cola protestors from Plachimada and other bottling units in Shivaganga and Tumkur organised a protest march on 18th January to the World Social Forum held in Mumbai in 2004. Again, in the World Water Conference held in Plachimada between January 21 and 23, 2004, resolutions were passed demanding that Cola quit India and resist water commodification attempts. Delegates from more than 60 countries participated in this conference. Soon after the meeting, the Parliamentary Committee Report about the presence of pesticides in soft drinks was published on 4 February 2004; It recommended the case to the Supreme Court Monitoring Committee (hereafter SCMC), which had been set up to study hazardous industrial waste in the country.

Despite the intensified agitation, the adverse technical reports and the court verdict, the company, on 17th February 2004, applied to Perumatty panchayat to renew its licence for another five years. At this point, The Kerala Cabinet decided to temporarily close down the bottling operations until the monsoon considering the District Collector of Palakkad's report about the region's acute water scarcity. The District Development Committee, headed by the District Collector, closed the plant in Plachimada and Chullimada. The company filed a petition before the Kerala High Court challenging the decision of the Kerala government to close down the plant till the next monsoon. Despite these orders to close down the factory, it continued its operations. At this point, the panchayat President submitted a letter to the District Collector requesting him to implement the above government order. Around the same time, in March 2004, the central government declared a list of 151 blocks in the country where the groundwater had been highly exploited. The list included the Chittoor block in which Plachimada is located. As the company continued its operations unfazed, on March 6, 2004, the Adivasi Samara Samiti captured the water tanker lorries bringing water to the bottling unit. It drained it into the drought-affected fields as a symbolic protest. The Division Bench of Kerala High Court upheld the Kerala government decision on March 8, 2004, and the company stopped its operations on March 9, 2004.

At the same time, multiple state agencies were dealing simultaneously with the company on different issues. There needed to be coordination or communication between these separate wings of the state, which helped the company continue its operations. For instance, the KSPCB, on May 19, 2004, directed the company to install a landfill as per the norms of the CPCB. The central government postponed the implementation of the JPC report of 24 January 2004 for one year about the presence of toxic materials, saying that the study needed to be conducted scientifically. The Supreme Court Monitoring Committee on hazardous waste recommended after visiting Plachimada on August 2004 that the company supply water to the affected people and install a reverse osmosis system to treat the wastewater. As per the SCMC, the KSPCB ordered the company's closure until the wastewater management system was installed. They also issued an order on 14th September 2004 to form a Regional Environmental Protection Committee (Hereafter REPC) to list the affected people and ensure their quality water supply. The KSPCB announced that the Cola plant produced 50 tonnes of solid waste from the wastewater treatment plant yearly, which must be disposed of properly. Meanwhile, the government withdrew the service of 10 police officers employed at the gate of the Cola plant as the company did not remit the amount of Rs.37 lakh for police protection. The KSPCB ordered the company to provide pipe water to the 341 families of Perumatty panchayat, as per the findings of REPC. But the company approached the Supreme Court Monitoring Committee with a request to continue its operations once the installation of the pipelines for the water supply in Perumatty panchayat.

After examining the wells in Plachimada, the report of the CWRDM at Kozhikkode, submitted on February 9, 2005, the Division Bench verdict of April 7, recommended that the plant be permitted to extract 5 lakh litres of groundwater per day. The Court observed that it could not block an individual or institution from extracting water from its land. The court criticised the panchayat, stating that the latter behaved unjustly towards the company. In light of this relatively favourable report, on March 11, 2005, the Chairman of the India Environment Committee set up by Coca Cola, the former Chief Justice of India, BN Kripal, expressed his dissatisfaction over the unwillingness of the court to issue a stay order on the government decision to close the company. The Adivasi Samara Samiti announced its decision to continue agitations until the plant was closed and compensation was given to the affected parties. The panchayat exposed the pro-Cola findings of the CWRDM study in the affidavit submitted before the Division Bench of Kerala High Court, prepared with the help of CEC, Delhi, on April 1, 2005. The Geological Assistant at KGWA, Palakkad, also filed testimony before the High Court against the CWRDM report.

Despite these contrary reports and testimonies, the Division bench of Kerala High Court pronounced a verdict on April 7, 2005, ordering the Perumatty panchayat to renew the license. But the panchayat issued a third show cause notice³⁸ to the company. While the Panchayat tried for a stay order, the company submitted a fresh application to renew the license. The company also replied to the third show cause notice of the panchayat. As the Division Bench verdict of April 7, 2005, of issuing a conditional

license to Cola plant was not obeyed, the company approached the court seeking contempt of court. As a reply, the High Court pronounced a verdict on November 16, 2005, directing Perumatty panchayat to renew the licence if the company applied.

Panchayat rejected the renewal application and informed KSPCB that Cola plant's claim of deemed license is invalid. The company approached the Court, citing the non-compliance of its orders, and requested the court to give further directions to the panchayat. Subsequently, the Division bench of Kerala High Court issued an order on 1 June 2005 that the company would be eligible for a deemed license for two years if the request is not renewed within a week. The company submitted a fresh application considering the new direction. Advancing 13 conditions, the panchayat issued a conditional three-month license on June 6, 2005. A month later, the KSPCB gave a show cause notice to the company on July 1, 2005, for not installing a reverse osmosis system.

But the company undertook a trial run on August 8, 2005, and informed the media that it would resume its operations soon. Soon after, on August 19, 2005, the KSPCB denied permission to run the bottling unit citing that the company had not revealed the source of cadmium in its products. They also alleged that the solid and liquid waste discharged from the company had polluted the area's water sources. The former president of Perumatty panchayat gave a complaint on October 2, 2005, to the Chief Justice of Kerala High Court alleging the influence exerted by the company on judicial officers. The KSPCB Member Secretary also filed a counter affidavit on Oct 9, 2005, against the company's claim that it possessed the deemed licence to run the factory.

On July 7, 2005, an individual named Mr Gokul Prasad of Nellimede, a nearby village, who is in no way connected with the Adivasi struggle, submitted a letter to KSPCB expressing his interest in filing a case against Coca-Cola as per the Water Act accusing the company of being responsible for polluting the water sources of the area. He informed the KSPCB on 22 July 2005 that he had convincing evidence against the company. Mr Gokul Prasad then filed a petition against the company, as per the Water Act, in the court of First-Class Judicial Magistrate on October 13, 2005. Media reports and interviews of lawyers representing the protesters revealed that the complainant was hand in glove with the company. When the KSPCB, on September 27, 2007, gave a show cause notice to the company asking it to explain why criminal action should not be initiated against the company as per Water Act sections 43 and 47 for polluting the water sources by dumping solid waste with the full knowledge that it would spoil the water sources, the company replied that a similar case filed by Mr Gokul Prasad was pending before the court of the first-class judicial magistrate at Chittor. It reminded KSPCB that, per Indian law, more than one trial cannot be done simultaneously. After filing the case, Mr Gokul Prasad had not argued his position in court. He tried to postpone the matter indefinitely. All these instances were reported in various newspapers and pointed out by the lawyers who represented the Adivasis whom I interviewed. The company informed KSPCB that Cola is not bound to give a reply to the show cause notice of KSPCB. The KSPCB also did not take up this issue legally after that. This has left suspicion in the people's minds about the involvement of KSPCB in this. It appears that KSPCB was very serious and concerned and took note of the pollution. However, it did not take the matter to its logical conclusion and resolve the issue under its jurisdiction.

Meanwhile, the government of Kerala notified Chittoor as water scarce area on November 19, 2005. It was reported in the newspapers that the officials informed the Minister for Industries that the company could continue to run if Plachimada was declared an industrial area. It also expressed its willingness to function even after relocating to some other place provided that the government continues the relaxations given in sales tax. Even though the company applied for the renewal of a licence to Perumatty panchayat, the governing council of Perumatty panchayat on December 20, 2005, issued a notification that the water sources in select areas of the panchayat could be used only for domestic and agricultural purposes between the months of January and June, in light of the acute water scarcity. The panchayat also informed the government on January 6, 2006, of its opposition to declaring Plachimada as an industrial area but announced its agreement about the company relocating to another place. If it relocated to an area under Perumatty panchayat, it would not be permitted to extract groundwater. The

panchayat extended the licence for three months on January 4, 2006, with strict conditions which restricted the company from taking groundwater and with a new provision that the company should provide one lakh litre of water in tanker lorries to the affected people daily. The President of the neighbouring Puthusserry panchayat expressed his unwillingness to provide space for the company in their panchayat. He also demanded that the licence of Pepsi in Chullimada be revoked. He alleged that Pepsi operated with the support of the state government, as it was located in an industrial area. The Cola company expressed its outrage against the conditions imposed by the panchayat. The panchayat replied on January 16, 2006, affirming its right to take steps to protect the people's interest. The Adivasi samara samiti wrote a letter of protest on January 16, 2006, to the Principal Secretary of Industries to conduct a discussion about relocating the factory. The Adivasi Samara Samiti passed a resolution on 20 January 2006 demanding the government to undertake a scientific study to assess the damage caused by the company to livelihood and ecology. The panchayat renewed the licence with the same conditions on March 31, 2006. Meanwhile, the KSPCB informed the company on March 15, 2006, about the relaxations given to it in the light of the Supreme Court Monitoring Committee. The company thanked KSPCB for relaxing the April 9, 2006 closure order.

Meanwhile, an LDF government came to power in May 2006, and the General Convenor of The Adivasi Samara Samiti Velloor Swaminathan requested the Chief Minister to initiate steps to end the ongoing agitation very soon. The GWA published a report on May 2006 stating that the company was responsible for the pollution and depletion of water around the plant. The Chief Minister assured that steps would be taken to resolve the Plachimada issue very soon on June 14, 2006. The company applied for license renewal on 2 June 2006, and the panchayat renewed it for another three months with the same conditions. The government withdrew all the criminal cases filed against the agitators on 5 August 2006 and announced the ban on the sale of Cola and Pepsi on 10 August 2006. Applying the Prevention of Food Adulteration Act 1964, the state banned Cola and Pepsi soft drinks on 12th August 2006. At this point, the Adivasi Samara Samiti approached the government to close the factory and compensate the affected people. Soon after the ban, the company stopped its operations one by one. The continuous sit-in before the company started on 22nd April 2002 and was discontinued on August 19, 2006. However, they decided to continue the agitation in different ways till Coca-Cola was subjected to criminal prosecution for crimes against humanity and ecology.

The Adivasi Samara Samiti persisted in their struggle. It organised a dharna before the KSPCB office in Palakkad on September 2, 2006, demanding action against the company for polluting water in Plachimada. They conducted another protest march to the office of GWA, Palakkad, on September 19, 2006, citing its failure to protect groundwater in Plachimada. The Minister for Health, on September 20, 2006, informed the Kerala legislative assembly that the presence of pesticides in Coca-Cola was 70 times and in Pepsi was 20 times higher than the permissible limit. The Kerala High Court Division bench, on September 22, 2006, cancelled the ban on Cola products in Kerala. The government entrusted the Agricultural University on September 25, 2006, to assess and report the impact of the Cola factory in Plachimada on agriculture.

Plachimada observed Jaladhikara Dinam (water right day) on November 1, 2006, declaring the people's inalienable rights over natural resources. The Human Development Report of the U.N., published on November 10, 2006, blamed the Cola plant for polluting and depleting the water sources of Plachimada. The government of Kerala approached the Supreme Court with a request to revoke the decision of the High Court to cancel the ban on Cola products in Kerala. The Adivasi Samara Samiti activists, on December 10, 2006, blocked the attempts of the Cola plant to take away the machines installed at Plachimada. They complained to the legislative committee members on January 24, 2007, that state institutions like KSPCB and GWA have failed miserably in understanding the impact of the solid and liquid waste produced by the Cola plant. They demanded a reformulation of the laws concerning waste disposal and groundwater extraction. Before the legislative committee on February 26, 2007, they were also required to file a case against the Cola plant as per Pollution Control Act, Water Act and SC/ST Atrocities Act. They asked the committee to take steps to close the factory permanently and release compensation from Coca-Cola to the affected people. They reiterated that the

people may be given the right over natural resources. They organised a Janakeeya Jaladhikara Yathra (People's right to water) from Kasaragod to Thiruvananthapuram, raising the slogan Jalam Jeevane (water for life), Jaladhikaaram Janaangalkke (People's right over water).

They again demanded the government, in the Yaathra (March), to close the bottling plant, initiate criminal prosecution against Coke, and give more powers to panchayat to stop the reckless exploitation of nature. The activists of the yaathra submitted a memorandum to the Chief Minister on April 4, 2007. The Adivasi Samara Samiti conducted a 100 days relay fast demanding the expulsion of Coca-Cola after realising compensation for the affected people. While addressing the All-India Solidarity Convention in Plachimada on August 10, 2007, Medha Patkar asked the government to expel Coke from India instead of negotiating with it. The Chief Minister assured The Adivasi Samara Samiti on August 18, 2007, that his government would protect the interest of the affected people and implement the recommendations of GWA and KSPCB to release compensation from Coca-Cola. The meeting of the GWA on October 23, 2007, requested the government stop any further enquiry into the Plachimada issue and initiate steps to realise compensation from Coke to the affected people. In the meantime, Medha Patkar, Aruna Roy and Sandeep Pande participated in the relay hunger strike when they came to attend the national solidarity convention at Plachimada. They urged people to undertake a cultural boycott of criminal Cola.

The Adivasi Samara Samiti, on August 27, 2007, informed the GWA that the studies undertaken by the agency failed to fulfil its social responsibility of protecting the people's interest. In a meeting chaired by the Additional Chief Secretary to the Government of Kerala on October 13, 2008, the GWA requested the government to constitute a High-Power Committee (hereafter HPC) to measure the damage caused by the Cola plant. The Adivasi Samara Samiti conducted a march to the residence of the Chief Minister on February 24, 2009, protesting against the government's inaction in expelling Coke from Kerala as per their election manifesto. Meanwhile, the KSPCB published a report on 29th March 2009 stating that wells in Plachimada had returned to the conditions before the setting up of the plant. After constituting the High-Power Committee, it was asked to collect evidence against Cola plant at the request of the Adivasi samara samiti on September 28, 2009. The next day, the company gave a letter to the Chief Secretary and GWA challenging the legitimacy of the HPC. The KSPCB, Palakkad, asked the company to shift the solid waste inside it to the TSDF Ambalamedu as it is expanded to nearby places.

The HPC submitted its report on April 22, 2010. The report asked the government to realise an amount of Rs.216.26 crore based on the polluter pay principle from Coca-Cola. The report asked the government to constitute an Authority or Tribunal to realise the amount. On May 25, 2010, the Secretary to Industries said in the presence of the Minister for Industries said that the net result of closing the factory in Plachimada was that 500 people lost employment. Earlier, the Industries Department had questioned the legality of HPC and also gave a cabinet note that the effluents of the company have not drastically affected the land in Plachimada. This was reported in Mathrubhumi on 16 April 2010. The Adivasi Samara Samiti protested against this before the District Industries Center, Palakkad. The Kerala government decided to constitute a Tribunal on June 30, 2010, to realise compensation from Coca-Cola. Kerala Legislative Assembly passed the Plachimada Tribunal Bill on February 23, 2011. The Governor's office forwarded it for a Presidential nod through the Central Home Ministry, as per the advice of the State Law Department. Meanwhile, Vilayody Venugopal was physically attacked, and two houses in the Plachimada colony were set on fire. The Adivasi Samara Samiti protested against the attack. The Adivasi Samara Samiti continued the agitation in different ways, like organising protest marches, issuing statements, exerting government pressure, and organising programmes on special days. It continues, even today.

The Central Home Department, on April 13, 2011, sought the opinion of the concerned departments about the bill. The Rural Development Ministry, Agriculture Ministry and Justice Department gave their nod on May 4 and May 16 and May 18, 2011, respectively. Meanwhile, Coca-Cola submitted legal advice given to them by Fali S Nariman, questioning the right of a state to pass a bill like this. On July 8, 2011, the central government asked the state government to explain the legal advice given to Coca-Cola by a private party. It is curious to note that the central government gave the

legal opinion given to Cola by an agency of undue importance by asking the state government to provide an answer. It had even resorted to extra-judicial means to save the company from making it pay for the crimes it committed. On December 2014, the central government asked the state to approach the National Green Tribunal for compensation. But NGT rejected the request citing a technical error that happened ten years before the setting up of NGT. Later, the President of India returned the bill to the state, citing that the state has no right to pass a bill like this. No legal measure is taken to tide over the crisis to ensure justice prevails by amending and resubmitting the tribunal bill by the LDF government, which came to power in 2016 and was re-elected in 2021. At last, the Kerala Home Department registered a criminal case against Coca Cola invoking provisions of SC and ST (Prevention of Atrocities) Act 1989 for groundwater exploitation. The lawsuit was filed 16 years after the Adivasis had raised this demand. No action has been initiated so far. In the meantime, the company informed the Supreme Court that it has no plan to resume its operations in Plachimada. The state and central governments have protected the interest of Coca Cola and justice for the Adivasis and punishment for the company have been delayed.

The local panchayat in the initial stages showed much eagerness to bring establish the bottling unit and to help the state government implement its policies. It was unwilling to listen and help the Adivasis when the latter complained about the Cola plant's operation. It was also under the influence of the neoliberal discourse of development. As the Adivasis strengthened the agitation, they were forced to change their stand and to support the people. After that, panchayat was at the forefront of the people's fight against the Coca-Cola company. The panchayat was forced to issue a show cause notice to the company and also fought the case in the High Court of Kerala. Later, the panchayat used its authority through the Kerala Panchayat Raj Act (1994) to protect resources like water. The prolonged legal fight exposed Coca-Cola as all the violations were unveiled before the people, compelling administrations to initiate actions against it. This led to the closure of the bottling unit in 2006. The panchayat intervention helped Adivasis to raise the issues related to water rights, community possession of common pool resources, corporate corruption, pollution and depletion of water in a forceful manner. Asked about the difficulties faced by the panchayat in countering Cola, A. Krishnan, the former Panchayat President, said,

"It took some time for the Panchayat to learn the devious ways adopted by the Cola. After understanding it, the Panchayat became firm and stood with the people." (Krishnan. A, interviewed on June 21, 2018)

The cancellation of the license by the court developed the argument that water pollution was a punishable offence. Through the legal battle, the panchayat articulated that community right prevailed over individual rights in matters related to CPR. The complaint given to the Chief Justice of Kerala High Court by the former Perumatty panchayat President on 16-11-2005 alleged that the financial clout of Cola influenced decisions about the cases against it. This succeeded in strengthening the assumption that corporations colluded with those in power. The prolonged legal battle and the verdict obtained advanced a new set of counterarguments.

The first judgement given by the High Court of Kerala was historic, with the pronouncement that resources like water are common property resources. On 16th December 2003, the single bench of The High Court of Kerala observed, "These resources meant for public use cannot be converted into private ownership" (Perumatty Grama Panchayat vs State of Kerala 2003). The Single Bench verdict of the Kerala High Court upheld the right of the government to restrict the users to protect the community's interest. Though Coca-Cola raised issues related to Natural Justice and equality before the law, the Court ruled that the community's welfare would get supremacy over the rights of a corporation. The single bench verdict upheld the community's right over the water, and the court's arguments strengthened the idea of the Adivasis and civil society. The judicial review had suggested the application of the 'polluter pays' principle for Plachimada. The court had proposed raising Public Trust Doctrine in settling the issues related to Coca Cola plant in Plachimada. The High Court opined:

"In no uncertain terms, even without any law governing groundwater, the Panchayat and state are bound to protect groundwater from excessive exploitation. It could even be argued that even if the company captures and uses its rainwater endowment, it should be asked to pay for the water it exports from the plant to the local panchayat. This is necessary as it uses this water as a raw material for profit, and its

cost should be paid to the local government to invest in future water harvesting initiatives.” (Perumatty Grama Panchayat vs. State of Kerala 2003)

These comments from the judiciary strengthened the demands of the Adivasis of Plachimada. The interpretations of the single bench verdict endorsed and supported the counter-narratives. The Single bench verdict noted that, “Groundwater is a national wealth and belongs to the entire society. It is nectar sustaining life on earth. Without water, the earth would be a desert. ...legally, there are no fetters on the 2nd respondent to extract groundwater...(so) the act resulting in the extraction of underground water is not treated as actionable wrong... Rivers, forests, minerals, and other resources constitute a nation’s natural wealth. These resources are not to be fritted away and exhausted by any generation. Every generation owes a duty to all succeeding generations to develop and conserve the nation’s natural resources in the best possible way. It is in the interest of humanity. It is in the interest of the nation....The said resources being a gift of nature, they should be made freely available to everyone irrespective of their status in life. The doctrine enjoins the Government to protect the resources for the general public’s enjoyment rather than permit their use for private ownership or commercial purposes. ...the underground water belongs to the state. The state and its instrumentalities should act as trustees of this great wealth. The state must protect groundwater against excessive exploitation. The state’s inaction in this regard will be tantamount to infringement of the right to life of the people guaranteed under Article 21 of the constitution of India.

Normally, every landowner can draw a reasonable amount of water necessary for their domestic use and to meet agricultural requirements. It is a customary right. But here, 510 kilolitres of water is extracted daily, converted into products and transported away, breaking the natural cycle. ...If the 2nd respondent is permitted to drain away this much water, every landowner in the area can also do that; if they all start extracting huge quantities of groundwater, the entire panchayat will turn a desert in no time.” (Perumatty Grama Panchayat vs. State of Kerala 2003).

The court verdict substantiated the position adopted by the Adivasis from the commencement of the struggle. They have been demanding that shared resources like water should not be monetised. Contrary to the single bench verdict, the judgement of the Division Bench of Kerala High Court permitted the Coca-Cola company to extract 5 lakh litres of water per day. The Division bench, in its verdict, noted that,

“...the Panchayat had been arbitrary in imposing decisions....We hold that a person has the right to draw water, within reasonable limits, without waiting for permission from the Panchayat and government. This alone could be the rule and the restriction an exception...the recommendation appears to be that permissible groundwater withdrawal could be 5 lakh litres per day...it always will be acceptable for an occupier to draw water out of his holding ...the very fact that the wells were drying up in the summer at Plachimada, notwithstanding stoppage of exploitation after March 2004, and when company’s bore wells were kept idle, leads to the assumption that the apprehensions and allegations were not valid to the factual situation (Hindusthan Coca Cola Beverage Private Ltd vs Perumatty Grama Panchayat 2005)

The contrary verdict given by the Division Bench of Kerala High Court was questioned by the Adivasis and the activists. When the Cola company questioned the verdict of the division bench of High Court of Kerala, it strengthened the counter-narratives. This was done through public speeches, pamphlets and explanatory notes published in *Keraleeyam*. The activists vindicated the position of the panchayat, questioned the unlimited usufructuary rights of the company, countered the CWRDM report that sufficient water was available and challenged the claim of the court that there was a discernible connection between depletion and extraction of groundwater in Plachimada. Thus, the intervention of multiple agencies like media, panchayat and court strengthened the Adivasi agitation by adding new evidence and arguments to their counter-narratives.

Development must aim to make individuals as well as society self-reliant. But the rapid depletion of resources for profit devastated the overall development of the individuals and community. Though the Adivasis were already living on the fringes, the health hazards created by the Coca-Cola company shattered their livelihoods. Furthermore, they were isolated and ostracized by the mainstream society. The resource-intensive development model was not sustainable as it could not maintain the balance of ecology. It had shown that a capital-intensive developmental model would inflict high environmental costs. As the prime aim of this was profiteering, pollution and depletion were the natural

corollaries. A return to normalcy in the immediate future became a distant possibility. This led to the strengthening of the civil society argument of community control over water. The ability of the market to regulate water was proven to be a myth. This narrative dismantled the neoliberal arguments of ‘efficiency’ and ‘better management practices’. The Adivasis were disenfranchised and reached the dead ends of constitutional assurances. Counter- narratives argued that decentralisation of power and strengthening the local administration are the solutions to control capital expansion. The counter-narratives from the non-Adivasi location supplemented and supported the Adivasi counter- narratives elaborated in the previous chapter.

The Plachimada struggle was primarily an Adivasi led agitation. The counter-narratives from the Adivasis had appeared submerged when critiques from the non-Adivasis emerged and became loud and visible, which led to a perception that the Adivasi agency had weakened. This perception was likely due to the visibility available to the non-Adivasis. While the non-Adivasi critique had tremendously contributed to the Adivasi struggle, this section argues that the tribal agency had not weakened during the battle. The Adivasis started the Plachimada struggle. It was planned and executed under the leadership of the Adivasis. The leaders of the agitation were also from that community. They raised significant questions and placed significant demands before society, as they were the first to be affected by the operation of the plant. It is a fact that the community received ample support from civil society. But the course of the agitation and the significant demands were prepared by the Adivasis themselves. The central event in the struggle was the sit-in dharna at the pandal in front of the company. Most people who sat in the pandal between 2002 and 2010 were Adivasis. People from other strata, like the other affected groups, renowned environmentalists, activists and social workers, also participated in the struggle. Their presence ensured the increased visibility of the battle. However, even when their visible support reduced, the Adivasis quietly continued the agitation.

The non-Adivasi critiques of development were generic in nature, providing a broader canvas to place the Plachimada struggle. On the other hand, the Adivasi critique was Plachimada-specific, detailing the nuances of the lived experiences there. They provided strong and unrefutable evidence from their own lived realities. This critique is novel in depicting the contours of displacement and dispossession experienced by a marginalised group. Simultaneously during the Plachimada agitation the strike at Chullimada (Approximately 15 km away) was begun against Pepsi. Members from prominent political parties, youth organisations and student organisations were at the forefront there. However, that strike was ineffective and failed to close down the Pepsi unit. The strike withdrew within a few months, and the company functions even today. The Adivasi led agitation against Coca Cola resulted in the closure of the company. The strike continues to date. It demonstrates the strength of the tribal agency. The Plachimada struggle is a prolonged agitation spanning more than two decades. When the company was finally forced to close the bottling unit, the Adivasis resisted the attempt of the company to remove their machinery. In the words of Murukesan, this was done because “[they] did not want the tragedy that befell [them] to be repeated anywhere else” (Murukesan, interviewed on 25 December 2018). They had realised that the new bottling unit would be set up in Tamarabarani, in Tamilnadu. It shows that the Cola strategy of continuous shifting of plants in the face of resistance was defeated by the actions of the Adivasis. This action could be interpreted as an extension of their agency operating beyond Plachimada. The pandal used for the sit-in dharna is maintained by the Adivasis to the present day. With time, they have expanded their demands from closing the bottling unit to seeking criminal prosecution against the company. Thus, their agitation was not driven by motives of immediate material compensation alone.

It is a fact that there were some differences of opinion among the Adivasis about the course of agitation. The allegation of the weakening of the tribal agency due to these changes over time cannot be taken at face value. The demands the Adivasis put forth are still significant, and the agitation is seen as a movement from below questioning the dominant discourse of development. The resistance put forth by the Adivasis is a historic moment in the history of Adivasi mobilisation. One feature of this mobilisation is that the Adivasis had substantial sway over the agitation throughout the struggle. It attracted other sections of society to its fold and argued for the cause. At the same time, the mobilisation

extended its reach to broader issues by incorporating the wider society's arguments. The leadership of the agitation was vested with the Adivasi women. Hence it would be inappropriate to say that the tribal agency was weakened, but the struggle has enabled the tribals to reclaim their voice to some extent although they are yet to get any justice under the guaranteed constitutional provisions.

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