



By ALBERTINA ALMEIDA

## Illegally Legal or Legally Illegal?

It is necessary to dissect what is called 'legal' and what is called 'illegal' where many an action is increasingly being taken by the State in the garb of legality in Goa.

*Flashback May 4, 1886:* Near the Haymarket square in Chicago, there is a meeting to up the cause of greater power and economic security for working people and to up the ante against the poignant disregard for the eight hour work day norm. As a speaker is winding up his speech, police march into the area and order the crowd to disperse, at which point a bomb is thrown at the police and the police fire. The mayhem that follows leaves police as also civilians dead and wounded. The labour activists are charged and convicted for inciting, though it is not at all clear who threw the bomb. But inciting or pushing labour to public actions and strikes due to unfair wages and working terms is not considered incitement.

*Flashback April 16, 1963:* Martin Luther King Jr. wrote in his famous letter from Birmingham Jail to his fellow clergymen, after he was imprisoned there for what he called the non-violent action of creating a tension for shaking people out of their complacency about racism "We should never forget that everything that Adolf Hitler did in Germany was 'legal' and everything the Hungarian freedom fighters did in Hungary was 'illegal'". King Jr. was referring to the legality of Adolf Hitler in that the latter legally unleashed the genocidal holocaust against Jews. He was acting under emergency measures which he himself had made law after he legally and democratically assumed power and arrogated to himself the power to make whatever law he desires.

History the world over is replete with instances where the law enforcement has always erred in favour of the powerful. But India had to be different. Why? Because it gave to "ourselves" and to the world a Constitution, where not just equality but substantive equality had to be the norm, so if one had to inevitably err, it was to err on the side of justice, and on the side of sustainable development and intergenerational equity. Even the Courts were required to be courts of equity apart from following the enacted law.

But in the present of May, 2015: Police register an FIR against unknown people for criminal trespass. So Domnic de Tiracol, among others, become the potential accused. His crime: Alerting villagers about bouncers who are come to protest and resisting the bulldozers from cutting trees in tenanted property to create an access for the golf course cum resort project of Leading Hotels Pvt. Ltd.. Domnic de Tiracol was forcibly dispossessed of his tenancy rights. So the State had recognized the kicking of the bull-dozer as a crime, an illegality and had 'legally' provided a couple of requisite licences for the Project which were founded on a sale deed of properties which actually tenants including Domnic were deemed owners of. Domnic was not made a party to the sale deed. He is now no more. He passed away on 10th July, following a massive heart attack resulting from the stress caused by the Golf Course project where he saw his land being ravaged under his very eyes. But in the eyes of the law, he was sought to be painted as a criminal trespasser.

25 May 2015 The Chief Minister of Goa is quoted as saying "We are supporting the golf course as the investor has taken all the required permission." Consequently, we need to affirmatively state that even if an entity has all the permissions for a project, it cannot be automatically implied that it is legal and therefore deserving of support? How come they call it legal? What about the misrepresentation on the basis of which permissions are granted? What about the fact that the Government authorities contrive to categorically pose the permissions alleged to be fraudulently secured as the basis of the 'rights' of corporations over human beings who live on the land and off the land?

The Leading Hotels' Golf course cum resort project is mired in the muck of seeming legality. The seeming legality of a sale deed, which is conveying ownership of land, which could not have been sold by the vendors in the first place. The seeming legality of pepping up the environment "from barren to beautiful" when there are trees galore which the project sought permissions to cut down! The seeming legality of fast pacing a project because it will generate large revenue and jobs. This, when the evaluation study of the large revenue generation schemes points to 30 additional jobs for a golf course in another part of India with the whopping large revenue generation scheme assistance!

A raft of measures has been taken by successive Government not just to somehow enable the project to function, but to proactively support it. The support ranges from advocating financial assistance for the projects from the Central Government, to the extent of a

whopping sum of crores, to 'accomodating' , nay driving, the Regional Plan on the basis of these projects.

Illegally Legal or Legally Illegal?



In a situation where there is a long aroused anger where people are likely to lose their dwellings, their livelihoods, and their cultural moorings, and the very social fabric of their village on account of the takeover of almost their entire village by Leading Hotels, the conflicts can only exacerbate. If the subsidy sought by Leading Hotels under the Union Tourism Ministry's large revenue generation scheme is granted to them, on the basis of State approval, again on false projections of meeting the legal requirements, it will not be long before Goa will be on its knees with a begging bowl seeking bailouts and find itself in a far more piquant situation than Greece is in the present day.

Any megaproject that hides behind a veneer of legality, needs to be immediately ripped apart, before any damage at all is done. Corporations' "rights" to set up a megaproject cannot take precedence over human rights. We cannot anymore continue with the logic of letting corporations cause wanton destruction of lives and livelihoods under the cover of having obtained all required approvals and proceeded. This, when the so-called Government approvals are themselves founded on illegal representations!

(First published in *O Heraldo*, dt: 16 July, 2015. This is an edited version)



Share this...



Facebook



Whatsapp



Print



Email





Illegally Legal or Legally Illegal?