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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

SALWA JUDUM AND THE LIMITS OF STATE- SPONSORED VIGILANTISM: A CONSTITUTIONAL AND SOCIO-POLITICAL CRITIQUE

AUTHORED BY - ¹SATYAM GAUTAM & ²ADV. PRIYANKA KUMARI

Abstract

The formation and eventual outlawing of Salwa Judum, a state-backed tribal vigilante group in Chhattisgarh, represents a critical moment in India's management of internal security and insurgency. Initially conceptualized as a mass tribal movement against Naxalite coercion, Salwa Judum was formally integrated into state counter-insurgency policy through the recruitment of its cadres as Special Police Officers (SPOs). However, the Supreme Court of India, in *Nandini Sundar & Ors. v. State of Chhattisgarh* (2011), declared the practice unconstitutional, citing violations of Articles 14 and 21 and warning of the long-term consequences of creating parallel, poorly trained militias. This paper examines the origins, legal challenges, constitutional implications, and future trajectory of Salwa Judum, while also locating it within broader debates on democracy, development, and insurgency.

1. Introduction

India's "Red Corridor" has long been a theatre of insurgency waged by Maoist (Naxalite) groups. Governments—central and state—have oscillated between political engagement and militarized suppression. One of the most controversial experiments in this context was Chhattisgarh's Salwa Judum (literally "Peace March" in Gondi), launched in 2005 as a community movement against Maoist coercion. Over time, it evolved into a state-backed counter-insurgency strategy, whereby tribal youth were armed and absorbed as SPOs.

The Supreme Court, however, in 2011, struck down the practice, holding that the policy violated constitutional norms and undermined human dignity. This judgment spotlights the tension between security exigencies and constitutional commitment, between short-term violent solutions and deeper socio-economic causes of unrest.

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2. Origins of Salwa Judum

- Genesis (2005): Triggered in Dantewada district, Salwa Judum emerged as a reaction of certain tribal groups who resisted forced recruitment by Maoists into their Jan Militias. Mass rallies were organized with local political patronage (notably from Congress leader Mahendra Karma, later assassinated by Maoists in 2013).
- State Adoption: By 2006 the Chhattisgarh government began supporting, financing, and weaponizing Salwa Judum cadres, turning them into Special Police Officers (SPOs) under the Indian Police Act, 1861 and later the Chhattisgarh Police Act, 2007.
- Force-Multiplier Logic: SPOs, often called Koya Commandos, were employed for intelligence gathering, village patrol, and direct combat roles against Maoists—activities the Court later termed unconstitutional.

3. Legal and Constitutional Issues

3.1 State's Defence

The State claimed its powers under Sections 17–18 of the Indian Police Act, 1861 and Section 9 of the Chhattisgarh Police Act, 2007 to appoint civilians as SPOs. They were presented as a necessary “force multiplier” in an under-policed insurgency-affected region. The Union of India echoed this, arguing merely a financial-supportive role under its Security Related Expenditure (SRE) Scheme.

3.2 Supreme Court Judgment (2011)

In its landmark ruling (Justice B. Sudershan Reddy & Justice S.S. Nijjar), the Court held:

- Violation of Equality (Article 14): SPOs, drawn from poor, illiterate tribal youth, were subjected to counter-insurgency duties with little training, while formal police enjoyed better protection and pay. Treating “unequals as equals” was unconstitutional.
- Violation of Right to Life & Dignity (Article 21): SPOs, inadequately educated and trained, lacked the cognitive ability to comprehend legal consequences. Armed deployment endangered both their lives and those of civilians.
- State Abdication of Duty: Outsourcing internal security to poorly trained militias reflected a “cynical disregard for human life” and an abdication of the State’s obligation to protect its citizens.
- Orders: The Court immediately disbanded Salwa Judum, ordered disarmament of SPOs, prohibited their use in counter-insurgency (permitting only traffic regulation and

disaster relief roles), and directed CBI investigation into associated atrocities (burning of villages, rapes, killings in Morpalli, Tadmetla, and Timapuram).

4. Training, Education, and Informed Consent

SPOs were often barely literate, some not even having passed fifth standard. Their training lasted barely two months, covering firearms handling, basic law modules, and cursory sessions on human rights.

- This placed them in combat against experienced Maoist cadres, leading to disproportionately high fatalities (173 SPO deaths out of 3000–4000 in service, compared to 538 deaths among 40 battalions of trained forces, 2004–2011).
- The Court questioned whether their “consent” to join was genuinely informed, or a byproduct of poverty, coercion, or revenge against Maoist atrocities.
- Such policies transformed tribal youth into “cannon fodder in the killing fields of Dantewada.”

5. Socio-Economic Roots and Development Critique

The Court recognized that violence cannot be reduced to “law and order” problems. Root causes include:

- Displacement & Land Alienation: Mining leases to corporations (e.g., Tata, Arcelor Mittal, Rio Tinto) without adequate rehabilitation, destroying tribal livelihoods.
- Inequalities & Exploitation: Development benefits captured by elites, costs borne by displaced tribals.
- Failure of Welfare Schemes: Poor implementation of MGNREGA, PDS, and tribal rights laws exacerbated discontent.

This context validated the observation of the Planning Commission’s Expert Group (2008), which emphasized that “developmental terrorism”—violence in the name of growth—fuels extremism.

6. Future of Salwa Judum and SPOs

1. Security Risks:

- Disbanded SPOs are vulnerable to Maoist reprisals, now branded “police informers.”

- Risks of them turning into local warlords or armed gangs, refusing to surrender weapons.
2. State Capacity Crisis:
 - Chhattisgarh continues to suffer a shortage of properly trained police battalions. With SPOs disarmed, the state faces a security vacuum.
 3. Judicial Recommendations:
 - Build a professional police force, not vigilante militias.
 - Address root causes: land reform, forest rights, implementation of central welfare schemes.
 4. Policy Implication Beyond Chhattisgarh:
 - The ruling casts doubt on the legality of SPO deployment in other insurgency-hit states (Jammu and Kashmir, Nagaland, Manipur). The Union of India had indicated intention to file a review petition.

7. Policy Recommendations

A three-pronged development-oriented counter-insurgency model is needed:

- Land & Forest Rights: Enforce land ceiling laws, operationalize the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, and empower tribals under PESA 1996.
- Economic Inclusion: Ensure tribals are stakeholders in mining revenues; strengthen PDS, MGNREGA, and rural infrastructure.
- Policing Reform: Expand and professionalize state police forces with proper salaries, accountability, and human rights training—not “temporary militias.”

8. Conclusion

Salwa Judum represents the perils of state-sponsored vigilantism—the state’s abdication of constitutional responsibility in favor of expedient militarized shortcuts. While conceived as a reaction to Maoist coercion, it degenerated into systematic human rights abuses, disempowerment of tribals, and deepened alienation.

The Supreme Court’s 2011 judgment remains a watershed, reminding that the Indian Constitution is not a “pact for national suicide” but a framework of dignity, equality, and fraternity. Sustainable peace in the Red Corridor requires addressing socio-economic

grievances seriously, not substituting development with development-induced displacement, or police with untrained youth conscripted into vigilante campaigns.

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