

Human Rights in Everyday Life in India

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The Praxis from Below

By

Shalu Nigam

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“Women who refuse to stay silent in the face of injustice, who persist in spite of overwhelming obstacles to use all legal avenues available in pursuit of their cause, these women have changed the world.”

—UN Women, 2011, Progress of the World’s Women, p. 16

This work is dedicated to the millions of *wretched of the Earth* who, amidst chaos, anarchy, and disorder, strive daily to make this world a livable place.

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PREFACE AND ACKNOWLEDGMENTS

While I was writing, I could hear the chanting of the slogan, “*From the river to the sea, Palestine will be free.*” The world is witnessing the ongoing wars in Ukraine and Gaza. Innocent people are being bombed; children are being forcefully starved, and the sick cannot receive medical aid. Schools, colleges, and hospitals are all being destroyed. These wars profit companies dealing in arms but devastate humanity. The International Criminal Court has issued warrants for the arrest of Israeli and Russian officials for war crimes and crimes against humanity. The USA, on one hand, is providing military assistance to Ukraine, while on the other, it has passed legislation that would sanction the International Criminal Court (Amiri, F. 2024).

Meanwhile, India has reinterpreted its policy on supplying weapons to Israel (Marsi, 2024). Amid rising unemployment, Indian men have applied for jobs in Israel, which is facing a labor shortage due to the ongoing war (The Times of Israel, 2024). At the same time, people worldwide are protesting to demand a ceasefire in Gaza and to prevent war crimes in Ukraine. Students across universities have called for transparency and disinvestment from companies supporting the war, while some universities have taken action against the protesting faculty and students (Aljazeera, 2024). Those in positions of authority have collaborated to consolidate their power; however, the oppressed have resisted in multiple ways.

In Afghanistan, the Taliban have limited women’s rights by banning their presence and voices in public spaces. The UN has stated that it is engaging with the Taliban while women flood social media with their songs of defiance (Firstpost.com, 2024). For those women confronting this grotesque injustice, the situation becomes dire. They have been arrested, jailed, tortured, and murdered, yet they continue to raise their voices (Amiri W., 2023). Meanwhile, in Bangladesh, a mass uprising against the ruling regime has caused political upheaval, forcing Prime Minister Sheikh Hasina to resign and flee the country. Tyranny and dissent coexist to create a unique culture. Globally, the powerful invoke the rights-based framework to justify oppression, while the oppressed deploy the same framework to end subjugation.

In India, after a decade of authoritarian rule, most citizens rejected the Bharatiya Janta Party (BJP), led by Prime Minister Modi, as evidenced by the election results in June 2024 (Apoorvanand, 2024). The alliance of the opposition political parties described these results as a moral defeat for the Prime Minister. Importantly, the people of Uttar Pradesh, where the BJP constructed the grand Ram temple in Ayodhya after demolishing the Babri Masjid, voted against the ruling regime. These voters rejected the politicization of religion, which neglects the basic needs of ordinary citizens. Yet, the Prime Minister and his team took the oath for the third time to form a coalition government. Since then, this government has been compelled to roll back several decisions due to political pressure from its coalition partners, the opposition, and civil society (Jeelani, 2024). In summary, the BJP employed all the tactics to capture and retain political power; however, its conservative and outdated ideology has failed to capture the imagination of most citizens.

At the same time, those committed to preserving the ideals of a secular, just, democratic, and plural India have not given up their battle. Ordinary people are expressing their anger against the state in various ways. For instance, in December 2023, four individuals were arrested for entering Parliament during zero hours. They released colored gas from a canister, threw pamphlets, and shouted the slogans “*tanashahi nahi chalegi*” (Dictatorship will not work) and “*Vande Mataram*” (Salute to the Mother Nation). Investigations revealed that those arrested included an e-rickshaw driver, a farmer, a job aspirant, and a daily wage worker. They were upset about rising unemployment, the agrarian crisis, and violence. They may have drawn inspiration from a similar incident during colonial rule in India when Bhagat Singh and Batukeshwar Dutt threw a bomb along with leaflets in the Central Legislative Assembly Hall in 1929 to express their anger against regressive rule (Punyani, 2023).

Similarly, in June 2024, constable Kulwinder Kaur allegedly slapped a newly elected Member of Parliament and actor at Chandigarh Airport for ‘disrespecting’ the protesting farmers, calling them terrorists and paid protestors (NDTV.com, 2024). Numerous such incidents illustrate the frustration of ordinary people with the state’s inaction in addressing basic issues such as poverty, unemployment, rising violence, and violations of rights. These little mutinies focus on citizenship rights and agency. In all such cases, conscientious citizens have boldly expressed their discontent to demand accountability from the state.

Grounded in a bubble-up approach, this book highlights these contradictions surrounding citizens' rights and the omissions and commissions by the state to deliver what it ought to. It contends that, on the one hand, the rights instruments are weaponized by the state and non-state actors; simultaneously, marginalized individuals are harnessing the rights-based tools to transform their harsh realities. In turbulent times, the masses strive to reshape the world around them with their courage, hopes, and aspirations. The goals of these struggles include eliminating inequities, speaking truth to power, and demanding socio-economic and political reforms. To strengthen the idea of participatory democracy, this work suggests that reframing the rights discourse is essential to bolster *lok shakti* (people's power).

Based on my location and work as a feminist lawyer and researcher, my perspective is shaped by the diverse experiences I have gained while collaborating with grassroots organizations, non-governmental and international organizations, autonomous groups, think tanks, research institutes, and social movements in India. Importantly, my engagements with the victims and survivors of violence in both private and public spaces, as well as with various oppressed groups, have broadened my horizons.

Through my participation in various protests and campaigns, I learned how laws and policies are intricately intertwined with our daily lives. This book is inspired by the vibrant energy reflected in the grit and determination of the dissenters. Tragically, these lessons I learned on the streets are not taught in the classrooms. As such, this work attempts to bridge this gap between the theory and the lived experiences of the marginalized in shaping progressive reforms.

Also, as a critical researcher, my continuous involvement with different stakeholders, simultaneously as an insider and an outsider, facilitated me to connect theory with *praxis*. These insights enabled me to link the mobilization of ordinary people against larger structural discrimination, or, in other words, getting a sense of 'personal is political'.

These firsthand experiences helped me understand how both state and non-state actors oppress and alienate the poor. However, grassroots voices amplify constitutional provisions, enriching the concept of justice. As a first-generation lawyer collaborating with individual and collective struggles in the streets and courtrooms, I learned how ordinary people employ the language of justice to challenge the evils of patriarchy, casteism, neoliberalism, and majoritarianism. These daily struggles advance the rights framework by fostering an alternative vision rooted in democracy and self-

rule, as the oppressed demand distributive and restorative justice in an unequal world.

More than 'winning or losing' the battles, these struggles are about the courage to fight, the determination to encounter injustices, and the zeal to address structural and systemic discrimination. This process involves thinking and doing constantly, connecting the theory to *praxis*. Through these enriching activities, I realized that the struggle for justice is tough. Nevertheless, 'We the People' engage with the mighty state to negotiate our rights by imagining constructive and just alternatives. I grasped the nuances of the bubble-up approach and the significant role that proactive citizenship plays in bolstering democracy.

However, at the outset, I must clarify that "civil society" is not homogeneous. Different actors from myriad backgrounds operate in a hierarchical sphere where deep fault lines divide the dominant and the dispossessed. Over the decades, I have observed paradoxes, such as the issue of poverty debated in five-star hotels and drought-related discussions held amidst an abundance of delicate food choices. In contrast, the subalterns are fighting for their forests, land, water, and basic resources without support.

Drawing on my experiences, this work explores the human rights discourse through a feminist lens, where I can relate to the struggle of a receptionist working at a so-called top-ranking women's organization who was compelled to return to work immediately after her abortion because her female boss denied her leave request. Her absence would lead to a deduction from her meager salary or even the loss of her job. At the same time, I also met Ratna Bai, an Anganwadi worker in a village on the outskirts of Delhi; Shankari Devi, an ordinary homemaker; and Afsana Bi, who runs a bakery shop. All three taught me the importance of raising a voice against injustices. They were vocal about their citizenship rights and questioned the inefficiency and inaction of the state.

Many more men and women I met over decades in villages and slums were grappling with the questions of poverty, unemployment, lack of basic amenities, sanitation, displacement, casteism, and violence. For millions of women in the informal sector, their daily survival is a major concern. Those in the formal sector, face different challenges including lower salaries, increased workloads, harassment, and pressures within workplaces and families. Many confront these hardships with remarkable resilience and hope for a better future.

All these situations have enabled me to comprehend the concept of active and conscientious citizenship amidst the rigid structural inequalities that persist in society. I realized that individual and collective battles must be fought continuously to deepen democratic values. These varied experiences inspired me to write this book.

Separated into six chapters, this work examines the fascinating journey to understand the politics of rights and its interconnection with millions of mutinies for justice, the idea of proactive citizenship, and the role of social movements in challenging the dominant narrative. It demonstrates how the rights paradigm facilitates progressive transformation.

Chapter 1 introduces the foundational framework presented in the book. Chapter 2 interrogates the concepts of rights and dignity. Chapter 3 explores the genesis and evolution of human rights in the Global South, highlighting that this history is inextricably linked to colonization, oppression, and resistance at various levels. Chapter 4 focuses on the debates surrounding the rights discourse, including its limitations, critiques, and significance from the perspective of the dispossessed. Chapter 5 examines how the idea of dissent is contextualized within the freedom struggle and how the concept of rights is embedded in the Constitution of India. It illustrates the application of the rights framework as a means to resist oppression and construct positive rights. Chapter 6 concludes that a *praxis approach* in the Global South can potentially transform oppressive situations. It suggests that *human rights praxis* is a work in progress and calls for a multi-pronged approach to rejuvenate the idea of rights-based justice for strengthening civil society, fostering proactive citizenship by empowering the marginalized, and strategizing diverse actions to hold the state accountable.

This interdisciplinary work borrows and collates material from various fields, including social sciences, history, law, jurisprudence, women's studies, political science, and social work, to analyze the phenomena of oppression, resistance, and the realities of the marginalized in the Global South. The author's personal and professional experiences as an advocate and researcher in this context have significantly shaped the work.

Students and scholars from law, social science, and political science backgrounds may find this book valuable. Additionally, it will be useful for citizens and individuals seeking to understand the paradigm of human rights in India.

It was not the scholastic compulsion that geared my engagement but a pursuit of activism that motivated me to contribute constructively to a positive vision. I have received no funding to put together this book. The views expressed herein are independent of my association with any organization or person in any capacity. I accept absolute responsibility for errors, omissions, or commissions inadvertently made while writing this text.

Over the decades, I have met a few committed people who have dedicated their lives to a social cause, which has restored my faith in humanity. I had the opportunity to learn from stalwarts such as Professor Lotika Sarkar, Professor Vina Mazumdar, Fr. PD Mathew, Adv. ND Pancholi, and many more people I met. I especially thanks Professor AA Khan, who taught me to appreciate the values of justice and human rights. I am grateful to the people working with organizations, institutions, movements, campaigns, and various platforms, with whom I gained the exposure to practically understand the meaning of solidarity and collaboration for a cause.

I express my gratitude to the people I worked with at the Indian Social Institute, Delhi, the Centre for Women's Development Studies, Delhi, the People's Union for Civil Liberties, Delhi, and many such organizations, where I have deepened my understanding of various socio-political and legal issues. I am thankful to those I met while participating in protests and campaigns. Their dynamism has inspired me to see life differently. I remain indebted to those who have taught me about the goodness of humanity, inspired me, and given me the courage to speak the truth to the power. It would not be feasible to list the names of all people, but I sincerely thank everyone for showing me the alternate path to justice.

I am grateful to the team at Cambridge Scholars Publishers for considering this work worthy of publication and providing their valuable input in editing this volume.

Forever, as always, I remain indebted to the two most wonderful and empowered women in my life, my lovely daughter Jigyasa and my mother, who are a constant source of inspiration. I am grateful to them for being constant companions throughout and showering all their unconditional love and affection.

Shalu Nigam
4 October 2024

ABBREVIATIONS

ADB	Asian Development Bank
AFPSA	Armed Forces Special Power Act
ASHA	Accredited Social Health Activists
BJP	Bhartiya Janta Party
CAA	Citizenship Amendment Act
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
DPSPs	Directive Principles of State Policies
GBA	Globalization from Above
GBB	Globalization from Below
HRC	Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
IMF	International Monetary Funds
INC	Indian National Congress
MDGs	Millenium Development Goals
MGNREGA	Mahatma Gandhi National Rural Employment Guarantee Act
MKSS	Mazdoor Kisan Shakti Sangthan
NAM	Non-Aligned Movement
NBA	Narmada Bachao Andolan
NGO	Non-Governmental Organization
NIEO	New International Economic Order
OHCHR	Office of the United Nations High Commissioner for Human Rights
PIL	Public Interest Litigation
PMLA	Prevention of Money Laundering Act
RTI	Right to Information
SDGs	Sustainable Development Goals
SLAAP	Strategic Law Suits Against Public Participation
UAPA	Unlawful Activities Prevention Act
UDHR	Universal Declaration of Human Rights

UN	United Nations
UNCTAD	UN Conference on Trade and Development
UNDP	United Nations Development Program
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commission for Refugees
UNICEF	United Nations Children Funds
WTO	World Trade Organization

Ordinary People Are the Real Heroes

Dashrath Manjhi, a laborer from a Dalit family from Gehlaur village near Gaya, Bihar, became a symbol of resilience after a tragic event in 1959. His wife, Faguni Devi, fell from the mountain and died. She could not be taken to the hospital immediately because it was on the other side of the mountains, and there was no connecting road.

Manjhi decided to end this state of helplessness. He took his hammer and chisel to shape the path across the mountains so that people in the village could easily access medical facilities. For 22 years, he worked tirelessly to carve a 360-foot-long, 16-foot-wide, and 25-foot-high path to provide easy access from the town to the nearby block. No one helped him. Instead, people ostracized and humiliated him by calling him a *madman*. Eventually, his dedication earned him recognition as the '*mountain man*' and he received an award from the state government.

Manjhi died in 2007, but due to his relentless efforts, the distance from the village to the nearest hospital was reduced from 70 kilometers to just a few kilometers.

Although he lacked formal education, he had an enlightened spirit. Unfamiliar with the language of rights, he confronted his situation of powerlessness, challenged the arrogance of the enormous mountain, and resisted the tyranny of the feudal mindset. He battled against the obstacles raised by corrupt officials, convoluted laws, and the Kafkaesque bureaucratic system, driven solely by his unwavering determination.

Perhaps his everyday experiences of injustice, his rudimentary beliefs about the right to access medical care, a sense of human dignity, and fond memories of his dead wife drove him to work persistently for years without fail.

When the indifferent state abysmally failed to provide essential services to its citizens and the mighty bureaucratic apparatus could not perform its obligations, one man did the job of connecting the outcast community in a remote village with the mainland.

His struggle was difficult. Yet he gathered the courage to do the extraordinary. He prioritized his moral duty over self-preservation. He was not guided by any political ideology. His relentless action was

driven by kindness, compassion, and, above all, a zeal to change the situation of deprivation, denial, and injustice.

In the American context, Zinn (2007:222) described that,

“The real heroes are not on national television or in headlines. They are the nurses, the doctors, the teachers, the social workers, the community organizers, the hospital orderlies, the construction workers, the people who keep society going, who help people in need.”

Similarly, in the Indian context, the real heroes are ordinary citizens, such as Dashrath Manjhi, who despite lacking resources, tools, or power, achieved remarkable feats. Even while facing marginalization, they have accomplished what no one in a position of authority has imagined.

CHAPTER 1

INTRODUCTION

“The reasonable man adapts himself to the world; the unreasonable one persists in trying to adapt the world to himself. Therefore, all progress depends on the unreasonable man.”

—George Bernard Shaw (1903: 238) in *Man and Superman*.

Emerged to address situations of injustice and oppression, human rights today serve as vital instruments for upholding democratic ideals. In these uncertain times, crises are increasing due to natural disasters such as pandemics, diseases, and earthquakes, among others. Additionally, man-made disasters are causing intense inequalities, poverty, exclusion, uneven development, statelessness, wars, bombings, atrocities, riots, deprivations, and starvation deaths. In all such contexts, the ideas of rights and justice become increasingly relevant. During periods when top-down policies induce extreme climate change, calamities arise from the excessive exploitation of natural resources, and the rights of the marginalized are violated daily by the privileged few, the concept of rights-based justice must be asserted from the perspective of the oppressed.

For the subjugated, the language of rights is essential for articulating everyday oppression, including the denial of basic entitlements such as education, health care, housing, employment opportunities, erosion of livelihoods, land alienation, displacement, and all forms of violence. Against this complex hierarchy of unspeakable suffering, the rights discourse holds the state accountable and compels it to recognize the rights of the marginalized for meaningful survival.

During dark times, laws and human rights instruments are appropriated by states and non-state actors for their vested interests. Justice is grimly equated with revenge and retaliation. In these circumstances, the rights of the oppressed require fierce protection. Speaking truth to power becomes crucial when oppression intensifies and violence becomes unbearable. In the pursuit of justice, it is imperative to reach out, hear, and document the voices that are forcefully stifled, suppressed, and silenced.

This book examines the framework of oppression, resistance, and rights in everyday life. Based on subaltern experiences, it interrogates the importance of the rights paradigm in addressing the situations of marginalization. While highlighting the field-based examples and case studies, this work raises questions such as: What are human rights, and why are they significant? What role the Third World countries have played in the making of human rights? Why do the governments in the Global South dismiss the rights framework as a Western idea? How are the rights of citizens violated and diminished by the states? How are the rights instruments being weaponized by authoritarian governments? Why do civil and political rights gain precedence over social and economic rights? How has the idea of rights been hegemonized, and what are the scholars saying about this? How has the concept of rights evolved over the decades in post-colonial India? How is the idea of human rights woven into the Indian constitution? How is the rights paradigm relevant in the current Indian context, where the state boasts of being a five trillion economy while the masses are denied basic amenities? If India belongs equally to all, why are some people alienated and excluded? More specifically, how are human rights embedded in the culture, and how are people utilizing this idea to demand their dues? How is the vocabulary of rights reshaping marginalization as a site of resistance? In situations of trauma and vulnerability, how is the grammar of rights, dignity, justice, reason, and peace applied to reclaim the citizenship entitlements of ordinary people? When the state and the non-state actors are diluting the rights framework, how are ordinary people shaping the idea of a right-based approach in concrete terms to strengthen participatory democracy?

This work concludes that human rights advocacy is more than just ratifying treaties and declarations; it extends beyond addressing individual cases of rights violations. It serves as a tool invoked by the disenfranchised to “*educate, organize, and agitate*” in their everyday lives. In situations of human wrongs, rights-based tools facilitate the mobilization of struggles for dignified survival. During crises, these tools help individuals find ways to cope with suffering. The vocabulary of rights operates in numerous ways, including opinion-making, demanding policies and laws to protect the entitlements of the marginalized, monitoring and enforcing rights, checking barbarism, fostering democracy, asserting citizenship rights, and contesting for the redistribution of power and resources by those pushed to the peripheries due to systemic and structural oppression.

Though the idea of human rights is hotly contested and debated at various levels, this work neither considers the debate from the ‘top’ nor from the political right or left perspective; it examines the struggles of people who

are marginalized, excluded, and subjugated and considered as voices from 'below'. Instead of probing the dominant framework that upholds the rulers' perspective, this work emphasizes the resistance of the oppressed. By countering the top-down narrative, it argues that rights paradox at ground level is shattering the monolithic discourse to imagine diverse possibilities.

This work connects action-based, non-violent struggles to abstract ideas of rights. It claims that despite hurdles at various levels, invoking rights tools enables individual and collective struggles to counter systemic discrimination caused by neoliberalism, fascism, market and religious fundamentalism, patriarchy, poverty, casteism, corruption, and all forms of oppression. Although these evils persist, this work asserts that there are possibilities to realize the radical potential inherent in the rights paradigm.

At the outset, it is essential to note that though the international rights paradigm has emerged from the history of oppression, a substantial body of scholarship on Third World Approaches to International Law (TWAIL) has criticized the making and enforcement of these laws. This scholarship has analyzed the power relationship, the new forms of imperialism, and the hierarchy between the First and Third World countries in the contemporary world (Chimni, 2012). Scholars have examined how the West has continued to colonize and subordinate the Third World by manipulating international law as a tool of exploitation (Anghie, 2023). Chimni (2006) explained that international law and the rights discourse have been hegemonized to serve a neo-liberal agenda.

The hegemonic idea of top-down economic development imposed by the Western world is also critiqued by various actors in the Third World, including scholars and social movements. Nonetheless, many academicians argue that despite the colonization of the rights discourse, it remains a significant counter-hegemonic tool that should not be discarded. Instead, human rights tools are considered weapons to challenge elite politics with mass politics (Rajagopal, 2006).

Nevertheless, the current situation reveals stark social and economic inequalities not only between the Third and the First World but also within the Third World internally. The undesirable, top-down approach has widened the gap between the rich and the poor. In India, specifically, social, economic, and political inequality has been growing over the past few decades. The policies of liberalization, globalization, and privatization implemented in the 1990s, have significantly affected people's rights. The uneven development driven by the free-market approach and dictated by the

transnational financial institutions has excluded, alienated, and marginalized a large section of society. Additionally, the rising authoritarianism has exacerbated these issues at the grassroots level.

Moreover, the discourse on decolonization is co-opted, and manipulated by the dominant narrative to impose its conservative ideology and advance its vested agenda. For instance, the current regime in India has enacted draconian and discriminatory laws under the guise of decolonizing the legal system (Nigam, 2022a). Additionally, the curriculum in educational institutions has been revised to “decolonize” education while promoting Hindutva (right-wing) ideology.

The Hindutva interpretation of decolonization targets minorities as outsiders. The Brahminical upper caste felt threatened by the rising assertions of subaltern groups and sought to suppress the voices addressing issues of marginalization (Thakur and Mohrana, 2018). In the Bhima Koregaon case, sixteen human rights defenders were incarcerated under draconian anti-terror laws for advocating for the material rights of indigenous people, which the ruling regime did not appreciate. Those arrested were labeled as urban *naxals* and deemed a threat to national integrity. However, in response to the dominance of internal authoritarianism imposed by conservative forces, alongside the oppressive neoliberal practices of transnational financial institutions, the marginalized continued to resist fiercely.

Historically, market fundamentalism has promoted neoliberal ideology, overshadowed the rights discourse and enforced the hegemonical idea of ‘*There is No Alternative*’ (TINA). In response, the oppressed have countered this domination with the assertion ‘*Another World is Possible*’ while envisioning alternative visions of justice and peace. Globally, dissent is evident from anti-war protests, agitations against militarization, nuclear disarmament efforts, peace movements, and many civil rights movements. The slogans from the Occupy Movement in 2011, such as “*We are the 99 percent*,” indicate how inequalities operate to exclude a vast majority and reflect the public’s resistance to these disparities. Numerous such actions have imagined the possibilities of survival amid the challenges posed by globalization, advocating for peace, opposing wars, and bolstering democratic norms. These collective efforts align with what Hardt and Negri (2005) called the ‘project of the multitude’.

In contemporary times, various strategies have emerged to resist oppression by totalitarian states and non-state actors. The #MeToo movement, the

#BlackLifeMatter movement, the defiance by women in Afghanistan against the tyranny of the Taliban, the resistance in India against the Citizenship Amendment Laws, the farmer's struggle in India, Europe, and other places, the protests by workers, the outrage against the increasing violence worldwide, the dissent against rising unemployment, the agitation by students against the corruption in the education system, and many such acts of confrontation depict multiple ways to challenge domination. Globally, citizens are contesting against injustices by state and non-state actors invoking the principles of rights-based justice. This dissent reflects a commitment to create a just world.

In the post-modern world, resistance persists even when the language of war and terror used by the states replaces the vocabulary of rights. Additionally, the advancement in surveillance technology is infringing on the rights of ordinary people. During times when techno-politics is emerging to the extent of techno-narcissisms (Baxi, 2009), when the developments in the field of artificial intelligence and neuroscience are reshaping human responsibilities, the human agency, autonomy, and real-life struggles of the toiling millions are rewriting politics from below. Despite persistent oppression, rights-based progress empowers the marginalized to engage with the mighty state to displace its unreasonable authority and shape the aspirations of billions in the Third World.

In turbulent times, pathological authoritarian politics aggressively undermines democracy, while neoliberal forces dismantle justice, clubbed with the silence of the courts. In such situations, the *human rights praxis* by the subalterns offers a beacon of hope sustaining the spirit of justice to foster democratization. Amidst the brutality, despair, and chaos fostered by the dominant politics and its trickle-down approach, the *praxis of rights* by the toiling masses provides a sense of sanity and serenity. These struggles by the disenfranchised and dispossessed illustrate that power is fluid and dynamic, capable of being shaped and reshaped through a contestation to claim resources, recognition, voices, integrity, and sovereignty (Lazarus-Black and Hirsch, 1994).

Expansion of Human Rights in Post-colonial India

The idea of dissent is deeply embedded in the Indian context in the freedom struggle and revolt against colonialism, the contestations during the Emergency of the mid-1970s, and various other social and political processes since independence. This vision of democratic, non-violent, and progressive resistance reimagines proactive citizenship essential for a robust

and resilient nation. As subaltern participation rises and grassroots movements gain momentum, radical transformations in socio-political structures become attainable. This change is inspired by the ideals of India as envisioned by the progressive thinkers of the freedom struggle (Ray, 1988).

In recent years, the authoritarian state has taken significant measures to undermine rights-based progress, and the oppressed continue to resist, demanding a redistribution of power and resources. Instead of showing mindless loyalty to the state authorities, conscientious citizens are raising critical issues to fulfill their allegiance to humanity. When the authoritarian state insisted on conformity and obedience, the marginalized refused to take the role of zombies or passive followers. They asserted their moral and social responsibilities by questioning and critiquing the anti-people politics through the lens of the rights framework.

In post-colonial India, the Constitution has played a significant role in elaborating the rights of individuals and communities. Within the patriarchal families and stratified, layered communities that have practiced discrimination for ages, the language of constitutional rights has been evoked by the oppressed to shift the power dynamics. For instance, although the evil of dowry violence persists despite its prohibition and criminalization (Nigam, 2023b), the practice of *Sati* (widow immolation) has been outlawed because the reformers demanded its abolition. The vocabulary of rights has been articulated in a way that an inherently misogynist society that practiced the *Devdasi* system (the practice of dedicating women to the service of temples for their lives) is now contemplating the rights of sex workers. The problem of child marriage persists despite legal prohibitions; however, the concept of live-in relationships is gradually gaining legal recognition.

Moreover, in the male-dominated society that celebrates the birth of a son, laws have been enacted to prohibit the killing of girl children. Additionally, as technology has evolved to select the sex of a fetus, activism from below has compelled the state to amend laws against sex selection. In this deeply patriarchal context, initiatives such as *Beti Bachao Beti Padhao* (Save Daughters, Educate Them) have been launched to address the skewed sex ratio.

A feudal society that has long practiced class-based discrimination is now considering the idea of safeguarding the rights of domestic workers. A deeply hierarchical society, the ideas of rehabilitation or compensation are construed as charity or dole. However, the grassroots struggles are compelling

the state to incorporate notions of inclusion for the oppressed into legal and policy frameworks, reshaping their entitlements. More than mere accumulation of rights, these struggles actively work to dismantle entrenched discrimination.

In the USA, the 'N' word has been replaced by 'Black' as a politically correct term, and the phrase 'people of color' is being used lately to denote non-white communities (Tharoor, 2024). Similarly, in India, the idea of *Manusmriti* (a rigid, conservative, misogynist, and casteist code advocating Brahminism) is gradually being replaced by the ideas of *Manav aadhikar* (human rights) and *Maulik aadhikar* (citizenship rights) (Nigam, forthcoming). It is inconceivable to reverse this trend. Persistent advocacy has forced people in power to recognize that they cannot reign in as per their whims and fancies without recognizing the humanity of the oppressed.

Though backlash is also emerging in its ugly shape, legally, untouchability is abolished. Instead, a deeply caste-ridden society is now debating the idea of safeguarding the rights of manual scavengers. Moreover, 75 years after India gained independence, the Supreme Court has recently ordered ending caste discrimination in prisons, including the caste-based allotment of work, deleting caste columns in prison registers, segregation of barracks, or discrimination against prisoners belonging to de-notified tribes (*Sukanya Shantha v. Union of India*, 2024).

The usage of the term *Harijans* by MK Gandhi for the Dalits has been deemed unacceptable for its paternalism by those who asserted their Dalit identity and launched the Dalit emancipatory movements. Also, on the one hand, when the concept of caste has permeated among Muslim and Christian communities in India, simultaneously, the Dalits are evolving *samajik chetna* (social awareness) to resist tyranny (Jaoul, 2008). Through political mobilization, conversion, and various other strategies, Dalits are fighting back the caste violence.

Rights-based activism has compelled the Supreme Court of India (2023) to release a *Handbook on Combating Gender Stereotypes* to assist the legal community in eliminating the use of misogynist language in the courts replacing it with gender-sensitive terminology. These efforts have not annihilated caste or eliminated patriarchy. Yet, these are gradually challenging centuries of entrenched discrimination. Scholars today are re-examining biased practices through the lens of critical race theory to comprehend how factors such as patriarchy, casteism, or class, intersect to violate human rights (Bradley, 2019). The prism of intersectionality is

employed to confront myriads of layers of vulnerabilities and navigate social, economic, and political barriers.

There is a growing preference for replacing stigmatizing and degrading language with inclusive and equitable terms. The language of inclusion, equity, and justice is gradually integrated into a hierarchical social order to contest multiple marginalities. For instance, the previous negative stereotypical label of 'disability' is replaced by an inclusive term 'differently-abled'. Besides, positive steps are taken to frame laws and policies to define the rights of differently-abled people. Though the use of sexist and degrading cuss words persists, the vocabulary of rights is actively altering the stigmatizing language used for specific communities and has clarified their entitlements.

For instance, LGBTQIA+ communities have advocated for abandoning derogatory terms historically used to describe them and have demanded the adoption of inclusive language. Their persistent advocacy led to the decriminalization of homosexuality in the landmark case of *Navtej Singh Johar v. Union of India* (2018). In *Supriyo Chakraborty v. Union of India* (2023), several petitions were filed by individuals and couples from gender minority communities to demand their rights to marry and establish a family. The conservative state and religious organizations, which have long upheld the orthodox heterosexual norms, opposed these petitions. However, the Supreme Court ruled that the legalization of same-sex marriage is a matter for the Parliament to decide while also recognizing their right to adoption. The Court emphasized that the Constitution prohibits discrimination based on sexual orientation.

Over the decades, a progressive stance has gradually emerged on issues such as the rights of the elderly, children, and single women. The vocabulary of rights is influencing and democratizing patriarchal families and stratified communities. Regressive ideas that glorify heterosexual norms and assert male supremacy are slowly fading away to be replaced by the recognition of diverse family forms. Laws regarding women's equal rights to family property, guardianship, and protection from domestic violence have been strengthened by women consistently approaching the courts to assert their rights (Nigam, 2024b).

In the face of severe backlash, the governance rules are being reshaped to transform the structures of oppression, paving the way for principles of transparency and accountability. Efforts have been made to enhance the effectiveness of the rule of law to ensure fair, timely, and effective access

to justice. Citizens have been contesting for their rights in various ways across multiple forums. Jayal (2017:2) noted,

“Every single dimension of the concept of citizenship is contested in contemporary India: citizenship as a legal status, citizenship as a bundle of rights and entitlements, and citizenship as a sense of identity and belongingness.”

While the incidences of crime against the poor, women, Dalits, tribals, or minorities persist, these little progressive steps indicate how the rights framework can break the shackles of bondage to create a just society. Furthermore, over the decades, constructive rights such as the right to food, the right to work, the right to education, the right to health, environmental rights, consumer rights, the right to information, the right to privacy, and the rights of prisoners, have evolved because ordinary people connected their living realities to the abstract rights to transform their surroundings. In several cases, affirmative decisions by the courts have advanced the rights of different communities.

Moreover, since the 1990s, when the Indian state aligned itself with the vertical hierarchy of global economic and political power by adopting a neoliberal agenda, a countermovement has emerged, comprising various people’s collectives forming alliances locally, nationally, and globally. Civil society, with its progressive ideas, has collaborated to address people’s issues (ADB, 2023). This consortium is countering the anti-people ideologies of globalization and authoritarianism, inventing new politics, and promoting an alternative discourse of pro-people development (Sheth, 2004). These movements frame development issues within the context of rights. This grassroots politics consolidates the idea of self-governance through a rights-based approach. Ackerman (2004) described these socio-political reforms as “*co-governance*,” where citizens engage with the state on a daily basis.

However, this journey to resist oppression is tough. Finding humanity amidst suffering is not easy. Ruling regimes often refuse to share power or distribute resources among the less privileged. Those in power constantly enforce measures to undermine hard-earned rights. To sustain their dominance, these groups weaponize the rights framework while deploying various tactics. For instance, in recent years, activists, human rights defenders, journalists, and writers have been jailed, raped, even murdered. Also, the elites label the grassroots workers and intellectuals as anti-nationals, traitors, and urban *naxals*. Various strategies were employed to stigmatize and alienate those who criticize the ruling regime. False cases

were filed against dissenters, their houses were demolished, and their property was confiscated. Others face targeted attacks in manifold ways. Yet, these actions have failed to silence the oppressed who continue to question the anti-people actions of the state. The 'clash of ideologies' between the oppressors and the oppressed continues to operate in the streets, courtrooms, and public spaces (Nigam, 2022c).

Zinn (1980), in the context of the United States, pointed out that historically, the establishment, comprising of the business class, executives, generals, and politicians, has applied all kinds of methods such as 'power and punishment, enticements and concessions, diversions, and decoys' to pit the common people, or 99 percent, against each other. However, the radical awakening and revolt among common people depict the possibility of surprise and transformation. He wrote, "*The prisoners of the system will continue to rebel.*" Similarly, Roy (1952) noted how humans have revolted against the tyrannical world order.

Likewise, in the Indian context today, the resistance of the oppressed is gradually transforming power structures. Mobilization among farmers, women, students, workers, youth, and various marginalized groups reflects widespread discontent against neoliberal and conservative policies adopted by the state. These relentless struggles aim to uphold the vision of a progressive and secular India. By invoking constitutional rights, these tough yet emancipatory struggles are paving the way for a just and sustainable future. Specifically, in the recent struggles, the Constitution, particularly, the Preamble, has emerged as a powerful symbol of resistance against fascism and dictatorship.

Neoliberalism, Authoritarianism, and Human Rights

In India, the policy of economic liberalization introduced during the 1990s has widened socio-economic inequalities, aggravated the agrarian crisis, and reiterated the oppression in its virulent form. Moreover, the elections in 2014 altered the political landscape, where the Bhartiya Janta Party (BJP) came to power with Narendra Modi as the Prime Minister. This political shift led to rising authoritarianism, which has further dented the social fabric of the country. Backed by the *Sangh Parivar* and *Rashtriya Sevak Sangh* (RSS)¹, the agenda of the BJP is to consolidate the idea of *Hindu Rashtra*, based on its conservative Hindutva ideology rooted in Brahminism. This regressive agenda is in direct opposition to the constitutional values of

¹ The progenitors and propagators of Hindutva ideology.

equality, secularism, democracy, and justice. This hollow reactionary politics consists of resentment, fear, and vindictiveness and offers false promises. It has led to a decline in civil culture and the collapse of humanization. This problematic theocratic approach is forcefully imposing its outdated agenda and making every attempt to divert attention from the staggering inequalities and massive misery.

Over the last decade, several changes have been introduced in the laws and policies to consolidate this divisive right-wing ideology. The progressive and people-friendly laws, such as the Right to Information Act, the Forest Rights Act, the Environment Act, the labor laws, and the land acquisition laws, have all been diluted. At the same time, repressive laws, such as the Prevention of Money Laundering Act (PMLA), and the Unlawful Activities Prevention Act (UAPA), have all been strengthened to target those who critique the regime (Bhattacharya, 2024).

Rather than expanding human rights and fostering the growth of civil society, the authoritarian state has taken measures to silence dissent and suppress diverse voices (Swart, 2020). The conservative government has targeted several NGOs revoking their licenses under the Foreign Contribution (Regulation) Act (Singh, 2024). Additionally, the state has curtailed the freedom of expression, silencing civil society activists, journalists, and political opponents through threats and politically motivated charges (Amnesty International, 2024). It is alleged that the conservative forces have captured social and political institutions undermining their autonomy (The Hindu, 2019). Incidents of atrocities and state-sponsored violence against minorities, Dalits, tribals, refugees, women, and children have increased over the years, while the state has failed to deliver justice to the victims (Human Rights Watch, 2024).

Furthermore, the neoliberal and authoritarian state has refused to consult the people as equal partners and stakeholders in the 'development' process when planning policies or enacting laws. This despotic governance has alienated and excluded the oppressed while promoting crony capitalism, thereby widening economic inequalities. The constitutional aspirations regarding citizen's rights have been diminished by the state by enforcing anti-people decisions over the years. Moreover, the market-driven state has replaced the welfare state (Kumar, 2024). The idea of a citizen as a right holder has been diluted and substituted with the concept of a beneficiary or a *labharthi* (passive recipient) or a receiver of the doles, services, and tangible benefits. The political discourse around *revdi culture* (freebies) has diminished the idea of rights as concrete entitlements of a citizen (Mohan,

2022). Consequently, the citizen-state relationship is now construed as a transactional interaction shifting the accountability of the state onto the duties of citizens (Aiyar, 2023).

These anti-people actions by the state are being fiercely contested by the marginalized to advance progressive ideas while incorporating a humane perspective. Due to these continuous agitations, the BJP, despite putting in all its efforts and resources to make India a theocratic nation, could not completely succeed. For the decade since it acquired power, this orthodox government has employed numerous tactics to impose its conventional, misogynist, and divisive ideas. Yet, it has failed because millions of ordinary people raise their voices against the repressive measures of the totalitarian state. People stood up against the narrative of lies and hatred; they stood for what was morally right.

The Nazis in Germany used propaganda to gain legitimacy and secure the support of millions of ordinary Germans to facilitate war and genocide. However, decades later, similar tactics to spread hate could not work effectively in India because ordinary Indians questioned the state's intentions. For instance, dominant forces have endangered education by destroying academic institutions and altering the school curricula. But, at the same time, ordinary people have exposed the propaganda. Numerous independent channels emerged to challenge the divisive agenda of the corporate-driven media, exposing lies and countering fake narratives. When an army of trolls was created by those in power to disseminate hate, many of these channels actively addressed the bigotry, Islamophobia, misogyny, and hate propagated by sponsored media cells.

Social media is channelized by the elites to propagate distorted lies and undermine constitutional values. However, countless ordinary men and women have verified the facts and disputed misleading information. Political parties exploited fear to mobilize public opinion using digital platforms (Washington Post, 2023). In contrast, ordinary people have countered this by sharing factual information and rational discourse. When the state manufactured hate and sponsored violence, the *Wretched of the Earth* came together to share the message of peace and harmony.

The disenfranchised have critically scrutinized and questioned the brutal state's policies, particularly as politicians and corporate interests colluded to push crony capitalism at the expense of citizens. In response to dissent, the state has filed SLAPP suits against dissenters. However, ordinary people united in solidarity when critics of the unjust policies were jailed. To