

Redefine the Republic: Expand Constitutional Framework to Include People's Rights

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On 26 January 1950, the Indian Constitution came into force. The anniversary of this moment is marked by Republic Day every year. For the ruling class, Republic Day is synonymous with a parade of military muscle and a charade of national 'unity in diversity'.

The boasts of military prowess have now extended to praise of privatized state terror and militarisation of society. In his Republic Day address this year, the Governor of Chhattisgarh hailed the state-sponsored civil militia Salwa Judum as a 'spontaneous movement' to protect the values of the republic, and called on people to extend 'physical, mental and financial support' to it. This, even after recent fact-finding teams have exposed the rapes and sexual slavery common in the Salwa Judum camps controlled by Army platoons! He made no mention of the recent farce of 'surrender of dreaded Maoists' in a grand function presided by the Chhattisgarh CM - later exposed to have been a staged show. Less than a week since the Republic Day celebrations, a fake encounter has come to light; in which three Kashmiri men - a carpenter and two street vendors - were picked up at random by police and killed as 'Pakistani militants' last year, resulting in a cash award for a police officer.

With manufactured 'militants', 'Maoists' and Naxalites being invoked as threats to the republic, with the smokescreen of fake encounters and fake surrenders, our rulers seek to reassure us that they are on the job of defending our republic from its enemies. But what of the threat to our republic's sovereignty and Constitutional freedoms by laws that pamper corporates and punish people, and unequal treaties that shackle us to imperialist powers?

In the past decade, there have been many voices seeking to rewrite the constitution. The BJP and Sangh Parivar while in power actually set up a Commission to review the Constitution in tune with their vision of an authoritarian Hindu Rashtra. More recently, after a Supreme Court verdict sought to override the Constitutional Ninth Schedule, several voices including the Tamilnadu Governor Surjit Singh Barnala have called for a complete overhaul of the constitution to better reflect the aspirations of the marginalized and minorities.

The Constitution as it was originally framed did indeed have several silences and hesitations that made the rights enshrined in it a preserve of the privileged. Various 'liberty' rights like the right to equality were indeed enshrined as 'fundamental rights' in the Constitution, but specific 'welfare' rights (the right to food, education, health, work and so on) were consigned to the non-justiciable 'Directive Principles of State Policy'. The violation of the latter steadily undermined the former, even as various arms of the state kept up the lip service to the former. In times of globalisation, the 'directive principles' of state policy are coming nakedly and unashamedly from imperialist forces and corporate houses. Once, compelled to make some gesture to the aspirations fuelled by the freedom struggle, the State passed Land Reform laws and even introduced the Ninth Schedule in the Constitution to safeguard them from judicial interference. However, even then, there was never any will to actually seize and redistribute ceiling surplus land. Now, in contrast, laws like the SEZ Act facilitating corporate land grab are being enforced by the brute force of the state machinery. The same courts that once held land reforms to be against the right to property, now give legal sanction to mass eviction of peasants from their land to benefit corporates. The Constitution itself is being

interpreted by these courts so as to hold protection or affirmative action for weaker sections to be against the spirit of right to equality. Preserving existing inequality has become the meaning of right to equality.

With the existing Constitutional framework proving more and more vulnerable to the onslaught of globalisation and an increasingly authoritarian polity, it seems we need a popular movement demanding a radical expansion in the scope of fundamental rights of the Constitution: to include the right to work, food, education, health and social justice. The Constitution of a democratic polity cannot be frozen forever. The experience of our neighbour Nepal stands testimony to how people's movements have time and again radically redefined the scope of democracy, and popular mandate has insistently necessitated a rewriting of the constitution in the teeth of opposition by a besieged monarchy and a reluctant ruling class. In our own context, let us remember that Babasaheb Ambedkar, the founder of the Indian Constitution, saw India as a 'nation-in-the-making', unlike those who saw India as an entity frozen in time, waiting to be 'discovered'. Radically redefining India's Constitutional framework is indeed the need of our 'nation-in-the-making', as Dr. Ambedkar's own Constitution is being wielded against his dream of social justice, and as Bhagat Singh's vision of a truly free and egalitarian India is subverted by the bhure angrez of today.

P.S.

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