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## Echoes from the woods: at the crossroads of forest struggles and human rights in postcolonial India

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Over the past many decades, social movements led by indigenous and other rural communities have been at the forefront of environmental stewardship. The UN has recognised these contributions by defining the new category of ‘environmental human rights defenders’, which it defines as ‘individuals and groups who, in their personal or professional capacity and in a peaceful manner, strive to protect and promote human rights relating to the environment, including water, air, land, flora and fauna.’<sup>1</sup> Unfortunately, environmental defenders are under attack across the globe – in addition to intimidation, harassment, stigmatisation and criminalisation, they also face growing assaults and murders. According to the UN, at least three environmental human rights defenders are killed every week, which is a stark reminder of the difficult intersections of environmental protection and human rights.<sup>2</sup> The corporate-driven and state-led exploitation of forests and other natural resources are thus implicated in the exploitation of both nature and socioeconomically and politically marginalised groups.

The gross and rampant inequalities of political and economic power undermine not only the human rights of marginalised people, but also the goals of environmental protection amidst an ongoing climate crisis. However, instead of giving into the compulsions of marginalisation, India’s Adivasis and other forest people have mobilised to contest their marginalisation and the interlinked processes of environmental destruction. These grassroots movements for *jal, jungle aur jameen* (water, forest and land) therefore create an opportunity for the human rights community to find an organic link between rights advocacy and their commitment to address global environmental and climate crises, which further undermine human rights. This special issue demonstrates these synergies and distils hard-earned lessons of these struggles to inform the ongoing debates on environmental human rights.<sup>3</sup> It highlights the ongoing struggles of the communities that are confronted with the most brutal and unprecedented assault on their economic and sociocultural rights – often led by the political establishment. The contributions in this special issue present multiple narratives of these struggles, theoretical inquiries into a diversity of political imaginations, and the intertwined changes in the legal and biophysical landscapes. These contributions speak to some of the most

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important contemporary debates within the human rights community, which we summarise here briefly.

The adoption of the Universal Declaration of Human Rights by the United Nations in 1948 marked a watershed moment that redefined the discourse and practices of human rights. Human rights community has debated the distinction between civil and political rights (often referred to as 'first generation' rights) and economic, social, and cultural rights (which many refer to as 'second generation' rights), often with the implication that the first generation human rights take priority over other human right.<sup>4</sup> Many human rights activists and scholars criticise such a hierarchy of rights, arguing instead that all human rights are universal, indivisible, interdependent, and interrelated.<sup>5</sup> Notwithstanding such normative ideals, a lack of attention to the fulfilment of economic and social rights is visible even in the wealthiest countries, such as the United States, where 34 million people lived below the national poverty line, even before the COVID-19 pandemic hit. Philip Alston, the UN Human Rights Council Special Rapporteur on extreme poverty and human rights, has warned that both the U.N. and the civil society organisations have failed to counter the 'deep resistance of many states to proper recognition of economic and social rights.'<sup>6</sup>

In large parts of Global South and among indigenous peoples the world over, the enjoyment of economic, social, and cultural rights is contingent on the access to and control over natural resources, e.g. land, water, fisheries, and forests. However, the ability of these communities to control their resource entitlements is threatened because the international agencies and national governments have allowed unscrupulous corporate and state actors to exploit these resources for accumulation and consolidation of profits. These trends go against the argument that the international community should adequately reward indigenous peoples and other rural communities for their historical and ongoing contributions to global forest conservation and ecosystem protection. Unfortunately, the highly biodiverse natural forests, that many generations of indigenous peoples and other rural communities have nurtured, are now vulnerable to green grabs – 'the appropriation of land and resources for environmental ends.'<sup>7</sup> These developments have led to a strange situation in which the creation of large protected areas as part of global conservation efforts lead to gross violations of human rights.<sup>8</sup> Such human rights violations include torture, rapes, and murders of indigenous people living in the vicinity of national parks.<sup>9</sup> In October 2020, the US government stopped more than \$12 million of funding to WWF, the Wildlife Conservation Society (WCS), and other conservation NGOs as a result of a bipartisan investigation into use of conservation funds for supporting anti-poaching activities leading to human rights abuses in Africa.<sup>10</sup> Protection of human rights within global conservation programmes is more urgent now than ever before.

The UN Special Rapporteur on human rights and the environment has developed the framework principles to explicate the main human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. These principles, which were developed through widespread global consultations, reiterate the principle of mutual interdependence of human rights and the health of the environment: 'Environmental harm interferes with the enjoyment of human rights, and the exercise of human rights helps to protect the environment and to promote sustainable development.'<sup>11</sup> Such an integrated view challenges the arguments that there is an inherent conflict between 'environmental rights' and 'human rights,' as posited by the advocates of a 'biocentric

approach.<sup>12</sup> Challenging such dichotomous views of nature-society relationship, grass-roots social activists often use human rights as ‘a weapon in the political battleground over the environment.’<sup>13</sup> Environmentally destructive natural resource extraction also contributes to the violation of economic, social, and cultural rights, which has triggered human rights based resistance movements in both Global North and South.

The civil society and social movements in India have also deployed the human rights frames in conjunction with the constitutional rights to articulate resistance against the process of their socioeconomic marginalisation. This special issue, therefore, foregrounds human rights scholarship in a diverse array of theoretical and methodological approaches that contributors use to investigate the various intersections of environmental and human rights in India.<sup>14</sup> This includes rich ethnographic analyses that enable us to understand the complex processes of claim-making vis-à-vis the state that remains wedded to the idea of economic growth as the main indicator of national development. We probe the merits of rights-based approaches, while accounting for the multiple ways in which the assertions of indigenous rights are simply used for virtue signalling. We mobilise the principle of ‘inalienability of minimal set of rights’ not only to establish local resources rights (e.g. access to and control over forests and other natural resources) but also to enmesh the *inalienable* claims of social and economic rights.<sup>15</sup> The authors in the issue develop case studies of specific areas, groups and communities in different parts of the country that are directly affected by the policies, programmes, and other state initiatives that effectively block their access to rights and justice.

Anjana Singh in her essay on ‘Neterhat field firing range’ maps the shifts in state policy from the ‘line of fire’ to the launching of grand projects of elephant corridor, tiger reserve and wolf sanctuary, and most recently to an eco-sensitive zone. Using narratives and archival materials, her essay foregrounds challenges that the Adivasis face in staking claims over rights to forests and forestlands. Eva Døgg Davidsdottir’s article on Pathalgadi shows the conflict between the state’s desire to expand networks of expropriation and the assertion of Adivasi rights. She argues that ‘rightful resistance’ which is at the heart of Pathalgadi movement, highlights the lack of adequate implementation of the Forest Rights Act and the legitimacy of Adivasis as stewards of forest.

Drawing on history of political thought, as shaped by liberal imperialism, and its impact on the constitutional discourses which shaped the political in twentieth century India, Shaunna Rodrigues’s essay shows the perils of liberal imagination of the colonised ‘others.’ This is evident from the use of certain terms such as ‘Scheduled,’ which shows how the ‘limits of political’ came to be enforced by the creation and maintenance of ‘murky boundaries. These processes also helped to establish and maintain the division between both people and the territories that became the unit of development and governance. The categories of exclusion, such as ‘scheduled tribes,’ separates altogether the questions of Adivasi welfare from the broader political questions. On the other hand, Arpitha Kodiveri investigates the theoretical disputes, claims and differences within the imaginaries of law, rights and claims. By presenting the entire assemblage of law that intersects with varying notion of human rights, Kodiveri illustrates the complexities of facilitating access to justice. The law takes on yet another type of life after it enters the political and administrative arenas, as Gunjan Wadhwa’s essay shows. She weaves the narratives of people, their experiences and encounters with everyday forms of participation in the political milieu of rights-based approach to illustrate the ‘limits of participation in an area of civil unrest.’

This special issue concludes with an article by Prakash Kashwan, Ishan Kukreti and Rahul Ranjan, who offer a broader analysis of the policy and legal challenges of protecting the rights of India's indigenous Adivasi peasants. As these authors show, the identities and life-worlds of Adivasis cut across the distinctions that the international community makes between indigenous peoples that are the focus of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and peasants who are at the centre of the provisions of The United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP). These authors argue that global human rights community must work toward embedding human rights praxis within networks of solidarities spearheaded by Adivasis and other indigenous peasants fighting for their rights.

The editors and the contributors to this issue have sought to foreground the most productive intersections of social movements for resources rights and justice with the ongoing debates within the global human rights community. Each contribution provides insights into the assemblage of law, everyday politics of negotiation, historical context, and complexities of the relationship between the Indian state and marginalised communities forged through ongoing struggles. This is a very different terrain for rights advocacy, as compared to the assumptions within western liberal institutions that inform much human rights advocacy. Contributions to this special issue mark important nodal points to underline the marginality of rights-holders vis-a-vis the formal law, the enforcement of which is undermined by the power that the state wields without adhering to the norms of public accountability. This includes the state agencies' exercise of oppressive power that human rights community is often focused on, but also the power of neoliberal discourses, policies, and institutions, which the human rights community is yet to engage with fully.<sup>16</sup>

We hope that this special issue will not only be useful to the wider Human Rights research networks around the world but also to scholars of South Asia, especially young and early career researchers involved in the research and advocacy of human rights in these deeply troubling times.

## Notes

1. Who are environmental defenders? UNEP – UN Environment Programme. <https://www.unenvironment.org/explore-topics/environmental-rights-and-governance/what-we-do/advancing-environmental-rights/who>.
2. Ibid.
3. John H. Knox, 'Human Rights, Environmental Protection, and the Sustainable Development Goals', *Wash. Int'l LJ* 24 (2015): 517; Gabriel Blouin Genest and Sylvie Paquerot, 'Environmental Human Rights as a Battlefield: A Grammar of Political Confrontation', *Journal of Human Rights and the Environment* 7 (2016): 132–54.
4. Fausto Pocar, 'Some Thoughts on the Universal Declaration of Human Rights and the Generations of Human Rights', *Intercultural Hum. Rts. L. Rev.* 10 (2015): 43.
5. Martha Nussbaum, 'Human Rights and Human Capabilities', *Harv. Hum. Rts. J.* 20 (2007): 21.
6. <https://www.opendemocracy.net/en/openglobalrights-openpage/phantom-rights-systemic-marginalization-of-economic-and-social-rights/>.
7. James Fairhead, Melissa Leach, and Ian Scoones, 'Green Grabbing: A New Appropriation of Nature?' *The Journal of Peasant Studies* 39 (2012): 237–61. Fairhead et al., 'Green Grabbing', 237.

8. Vicky Tauli-Corpuz, Janis Alcorn, Augusta Molnar, Christina Healy, and Edmund Barrow, 'Cornered by Pas: Adopting Rights-Based Approaches to Enable Cost-Effective Conservation and Climate Action', *World Development* 130 (2020): 104923.
9. Germany freezes funding to WWF following human rights abuse in Congo. (2019, July 25). Survival International. <https://www.survivalinternational.org/news/12178>.
10. <https://www.survivalinternational.org/news/12475>.
11. John H. Knox, 'Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment: Biodiversity Report', *United Nations Human Rights Council, A/HRC/34/49* (2017).
12. Susana Borràs, 'New Transitions from Human Rights to the Environment to the Rights of Nature', *Transnational Environmental Law* 5 (2016): 113–43.
13. Malayna Raftopoulos, 'Contemporary Debates on Social-Environmental Conflicts, Extractivism and Human Rights in Latin America', *The International Journal of Human Rights*, doi.org/10.1080/13642987.2017.1301035. Alan Boyle, 'Human Rights and the Environment: Where Next?' *The European Journal of International Law* 23, no. 3 (2012): 613–42.
14. For related arguments from Latin America, see, Corinne Lennox, 'Introduction to the Special Issue on Activist Scholarship in Human Rights', *The International Journal of Human Rights*, doi:10.1080/13642987.2019.1667771.
15. J.W. Nickel, 'Poverty and Rights', *Philosophical Quarterly* 55 (2005): 385–402; Prakash Kashwan, 'The Politics of Rights-Based Approaches in Conservation', *Land Use Policy* 31 (2013): 613–26.
16. For a recent review, see, Prakash Kashwan, Lauren M. MacLean, and Gustavo A. García-López, 'Rethinking Power and Institutions in the Shadows of Neoliberalism: (an Introduction to a Special Issue of World Development)', *World Development* 120 (2019): 133–46.

## Disclosure statement

No potential conflict of interest was reported by the author(s).

## Notes on contributors

*Dr Rahul Ranjan* is a Postdoctoral Research Fellow at the Oslo Metropolitan University, Oslo (Norway). He is working on the Research Council of Norway funded project – 'Riverine Rights: Exploring the Currents and Consequences of Legal Innovations on the Rights of Rivers'. He was awarded his PhD from the School of Advanced Study, University of London in 2020. He has previously worked as a Media Coordinator for the Human Rights Research Network in London. He is thankful to the encouragement he received from Damien Short and Corinne Lennox in thinking about this issue and marks the invaluable importance of working with young scholars.

*Prakash Kashwan* is an Associate Professor in the Department of Political Science and Co-Director of the Research Program on Economic and Social Rights, Human Rights Institute, University of Connecticut, Storrs. He is the author of *Democracy in the Woods: Environmental Conservation and Social Justice in India, Tanzania, and Mexico* (Oxford University Press, 2017). Dr. Kashwan is a member of the global expert group for Scoping of Transformative Change Assessment by the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), a Senior Research Fellow of the Earth System Governance (ESG) Project, and one of the Editors at the journal *Environmental Politics*. He also co-convenes Climate Justice Network (<https://www.climatejusticenetwork.org/>).