CHAPTER SIX

AN EVALUATIVE ANALYSIS OF THE

HUMAN RIGHTS MOVEMENT AND ITS FUTURE

6.1 Introductory

As we have seen in the earlier chapters, human rights movement represents the historical journey travelled by humankind ever since the beginning of an institutionalized political and social order.\(^1\) It is the manifestation of the inner contradiction within the core structure of the Indian society that appeared through overall process of social change towards the end of the twentieth century. The effect of such a change has originated from both the change held at the global realm as well as the change that appeared within the Indian society.

The global realm of change revolves round the power and economic development of the developed countries in the world society. The post world war global society witnessed politico-economic alignment within the developed countries. The United Nations, the International Monetary Fund, the International Bank for Re-Construction and Development (the World Bank), the European Union and recently the G-7 countries came in to being in this process. India, a developing country became subservient to the ideology and economic power of these developed countries and their institutions. The aids of these organizations also flew to India under various heads to meet the internal crisis but the allotment of these aids was made on the principles of safeguarding human rights. This enormously influenced the essence

\(^1\) Gokulesh Sharma (2000), p. 4.
of human rights movement what Indian nation state has cultivated under the umbrella of civil rights movement since long.\textsuperscript{2}

The main focus of this chapter is to provide a critical overview of the human rights movement in India and to predict its future. At the same time, it is quite clear that one cannot understand or evaluate human rights divorced from the historical and social context. Idle ideals and empty assertions cut no ice. The status of human rights takes to the life style of the society. That is why the Indian constitutional approach is soaked in the social milieu and the human conditions and is not a trans-Atlantic transplant. Nehru’s tryst with destiny in the Constituent Assembly was a history in the making and not merely a rabble-rousing rhetoric.\textsuperscript{3}

India is a sovereign, socialist, secular, democratic, republic. Every attribute of the republic is based on human rights, that is, the sovereignty of the people over the entire resources of the nation; the secular liberation which interdicts discrimination against individuals and groups on religious grounds, the socialist harvest of economic, cultural and other rights and the democratic participation through political and civil rights. These are meaningfully implicit in the system of the Republic and are made more explicit in the preamble and parts III and IV which have been called the conscience of the Constitution.\textsuperscript{4} Along with that for the preservation of human rights, the Indian state is also a signatory to many international covenants on human rights.\textsuperscript{5} At the same time it is ironical that despite extensive statutory and constitutional safeguards, there continues to be significant human rights abuses in the country due to lack of awareness, sensitivity and strong policy.

As a matter of fact, every democratic constitution tries to recognize the concept of human rights in one way or the other. Indian polity, too, theoretically recognizes the prime importance of the concept of human rights. However from the practical aspect of our political system, sometimes, it appears that the concept of human rights is more or less a myth.\textsuperscript{6} After


\textsuperscript{3} S. Parameswaran (2000), p. 86.

\textsuperscript{4} \textit{ibid.}, p. 87.


\textsuperscript{6} \textit{ibid.}, p. 212.
nearly sixty five years of independence, one is forced to think on an important issue if the concept of human rights enshrined in the Indian Constitution is being properly honoured or not. Simultaneously it draws our attention to the working of the political process, institutional structure, development process and the condition of the man who forms the base component of the entire system.

The constitutional goal of socio-economic justice seems to have become a mirage. The Directive Principles of State Policy have been either observed in non compliance or used to accumulate the authoritative powers. For millions of poor people, they are not more than the ‘Decorative Principles of State Policy’. One certainly feels disappointed to look at the gap between human-rights ideals and human-rights reality but at the same time we are unable to recognize our fault in creating that gap and find it easier to blame economic structures or supposedly ineffective institutions such as the United Nations.\(^7\) Above all, on the name of national security and unity, authoritative laws like TADA, the NSA and constitutional amendments are being given permanent place in the Indian political system.\(^8\) Peoples’ movements and their rights are frequently suppressed by the state machinery on one or the other pretext. Bureaucracy and police have become coercive in character which is against the very concept of human rights. Over all, it seems that the codification of large body of human rights has contributed little to change the behavior of nation about human rights.\(^9\)

At the same time it should be understood that the presence of documents does not of course means that human rights are effectively protected within the individual societies. Their enforcement remains uncertain. International community and many national governments lack the resolve and resources to rectify violations of human rights in much and perhaps most of the world. For example, “untouchable” laborers in India suffer daily indignities because they were born into society raven by caste; these people are far from equal with other citizens of their states. Legal stipulations at the international level have not been translated into meaningful protection at the local level.\(^10\)

However, the Vienna Conference of 1993 reinforced the commitment of the international community in principle to universal human rights. The most significant aspect of this international conference was the participation of thousands of new NGOs from the developing world. After that, most governments are formally committed to human rights and the number and effectiveness of human rights NGOs have greatly increased in recent years. In spite of that, serious violations continue especially against the vulnerable groups such as women, children, indigenous peoples, minorities, migrant workers and asylum seekers.\(^\text{11}\) The starvation deaths are still a reality in various parts of the country for example, Kalahandi, Orissa. The suicides of the farmers have become a common feature. The situation is really grim and explosive.\(^\text{12}\)

However, human rights violations of these vulnerable groups in contemporary India is the result of a complex nexus between the politics of identity, exclusion, inclusion and segregation, rooted in history, cultural ethos, politics and economics.\(^\text{13}\) The myth of human rights becomes more apparently visible in India and threatens to pose a much bigger problem in the new millennium.

Recently the human rights academicians have been devoting excessive attention to the UN system of commissions and committees. These may be important but they are certainly not the only important institutions that affect human rights in the world and they are probably not the most important.\(^\text{14}\) However, the Government of India has enacted the Protection of Human Rights Act, 1993 and has established the National Human Rights Commission for the protection and promotion of human rights with the powers to investigate and to recommend policy changes and to award punishment as well as compensation to the victims of human rights violations. The NHRC has the mandate to spread human rights awareness and


The NHRC has, since its inception in 1993, rendered yeoman service for the promotion and protection of human rights in the country. It has been playing a pivotal role in safeguarding the rights of the people. It has also been involved in spreading human rights awareness and causing sensitization amongst various sections of the society. The fact that people with impeccable credentials have occupied positions in this Commission has added to the credibility of this institution. It is due to this credibility enjoyed by the institution that the highest court of the country has been assigning matters of extreme importance to it.

The Protection of Human Rights Act, 1993 which established the NHRC is widely seen as the model legislation and has since been emulated by many countries of the world. The successful functioning of the Human Rights Commission has also inspired similar bodies in many other countries. It has over the years made significant contribution to the protection and advancement of the right to life, liberty and dignity of the individual, by virtue of its prestige and expertise. It has also contributed to the growth of a human rights movement in the country. The inevitable confluence of political and socio-economic rights in the cause of all round development of the country has been well understood by the NHRC.

Notwithstanding all this there have been complaints from some NGOs that NHRC has not lived up to the principle of transparency, as it does not give NGOs full excess to its activities. A criticism one could offer is that NHRC is increasingly becoming bureaucratic in terms of its internal structure with its personnel chiefly drawn from the government. One may also criticize NHRC’s bureaucratic approach to evolving human rights syllabi for teaching purposes. The Commission should but does not seem to offer assistance in the effective functioning of other national institutions like the National Commission for Minorities, Commission for Women and the Commission for the Scheduled Castes and the Scheduled Tribes. Indeed, part of the blame on this count should rest with the chairpersons of these Commissions themselves who were ex officio members of NHRC.


\[\text{http://presidentofindia.nic.in/sp101212.html.}\]

by it in the field of eradication of child labor and bonded labor, creating and ensuring access
to rights by children, women and people living on the margins of society, and public health,
etc. etc. is highly commendable.

The other national human rights Institutions have also failed to reach up to the expectations
of the people. Their protection role is still largely undeveloped and their explicit prevention
role is even weaker. For example, the National Commission for Women could not take
effective steps to meet the miseries of the people. With that, a question arises in our mind: Is
there something wrong in mandate, power and functioning of these statutory bodies? These
institutions must be reformed positively so that they become useful to the people and do not
remain paper tigers. At the same time it is required that human rights organizations should
play a crucial role in monitoring these institutions at the various levels that they function in.
In the states of Chhattisgarh and Orissa, when the state established institutions failed to
protect the human rights of the people, it was these organizations that played a key role and
they still are playing it. It is thus the need of the hour that the role of national human rights
institutions should be strengthened by consolidating partnership with NGOs who can take
part in significant activities that include reporting, investigation, education and publication of
human rights materials. They should also undertake regular risk analysis from the
perspective of human rights.

The citizen’s right to know the facts about the administration of the country which is
considered to be the one of the pillars of the democratic states, is being ensured through the
Right to Information Act, 2005. These days the concept of human rights is consolidated,
guided, exploited, channelized and even eroded by the political parties, groups or the elite
with the object to gain or retain political power.

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18 Rajni Malhotra Dhingra (2011), p. 120.  
Legal and judicial activism entails the consequence that human rights movement pursues the task of reform and renovation of law. Reformation of the state, parastatal and global structures and practices constitute a vital part of the very agenda of human rights movement. At stake in this remains the impulse to make power incrementally accountable, governance progressively just, and the state conduct increasingly ethical.\textsuperscript{23} Judicial activism of the Supreme Court in the protection of human rights has also been appreciated in the previous chapter. Technicalities and frivolous procedural constraints did not prevent the apex Court from doing justice in class and affirmative actions.\textsuperscript{24} While the Supreme Court is pro activist, the Indian bureaucracy, the executive and the law enforcement machinery by and large, are institutionally apathetic to the human rights protection. Even under the \textit{TADA}, 1985 as amended in 1993 and which culminated on May 23, 1995, nearly 80,000 farmers, minorities and political opponents of the ruling party have been dumped along with just a few hundred or dozen of terrorists. The state was apologetic about this blunder but it did not come out \textit{suo moto} for providing compensatory relief to these 70,000 of improperly and wrongfully arrested citizens.\textsuperscript{25}

Despite their diverse foci, all the social movements already discussed share a common commitment to basic human rights, enhanced citizen political participation, environmental protection, and sustainable development which makes reasonable their greater coordination in the advancement of human rights. In short, the globalization processes have brought into being not only new human rights abusers but also new human rights guarantors in the form of increasingly powerful social movements that have the potential to check those abusers by using techniques ranging from public dissension and shaming to economic boycott. Such movements will help to bring into being new global institutional mechanisms for the protection of human rights parallel to those currently in place for state actors.\textsuperscript{26}


\textsuperscript{25} \textit{ibid.}, p. 27.

NGOs have been one of the most essential components of the human rights movement. They are best known as human rights movement’s prime engine of growth. The proliferation of non-governmental organizations formed on the initiative of the people themselves, and encouraged by national and international action, appears to be the only way to involve each and every human being in the world movement of human rights. These bodies like friend in need will remain within the walking distance from the individual for taking up his cause and helping him seeks effective redress. Non-Governmental Organizations are thus the extreme manifestation of environmental implementation of human rights. Their usefulness is borne out by the experience in as much as the contemporary movement on human rights not only originated in non-governmental organizations, but owes most of its present dimension to their initiative, exertion and endeavors.

While there are serious and genuine NGOs worldwide, clearly the issue of transparency and accountability is a central matter that affects the credibility of this sector as a whole. While NGOs have become globalised and are increasingly accessing funds and other resources from different parts of the world, they have not opened up their activities sufficiently to serious public scrutiny. Such opening up is very important, given the fact that the wider society deposes trust in NGOs and the actions of NGOs may have important consequences for protecting the moral integrity of the human rights movement. For example, the report of the Amnesty International in 1970s and 1980s offered the message of gross violation of human rights in India and constituted the stimulus for the human rights movement. The role of the Asia Watch and of the International Commission of Jurists carries equal applauds in this direction.

There are number of Indian NGOs which perform useful work in various fields of human rights - social welfare, old age care, health and community medicine, assistance to depressed

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30 Govinda Chandra Rath (2005), pp. 61-92, at p. 70.
classes, child welfare, rehabilitation of bonded labor, rehabilitation of people uprooted by economic development project, welfare of the disabled, consumer rights and so on. The chief problem with these NGOs is that there is lack of co-ordination of their activities in terms of their fields of activity, territorial areas and target groups of their activities. Indeed, at times, they reveal a sense of rivalry. Again these NGOs change their priorities frequently according to the wishes of the donors. They have learnt to adapt to the changing international funding priorities, moving when and where donors move. The NGO sector has also become politicized and is large enough in India so that political factions are beginning to fight one another by proxy through NGOs. Such organizations are often aligned with political parties, and conduct their business according to the agendas of those parties. This may, in turn, greatly diminish the influence and ability of NGOs to provide legitimate criticisms of the government, thereby leaving a vacuum for the leadership of true social movements.

Moreover the established NGOs dominate and impress the funding agencies which in turn become the cause of frustration amongst the smaller NGOs since these big groups tend to be bigger and take the credit for whatever progress is made. However these shortcomings do not undermine the strength of the human rights movement in the modern complex world. It is the NGO movement on which the hope of the future can be relied upon. Need of the time is to make this movement effective by keeping faith in it.

Since the 1970s, the Indian media has also played an extremely important role in sensitizing people with information about governance, development, science and technology, foreign relations and so on. However, lately it has also come in for criticism, and there seems to be a decline in the journalistic credibility. Some of the senior journalists do feel that the media shies away from important people’s issues such as tribal issues, that it is losing social content and becoming a consumer product with the manager overshadowing the editor. While the media is “a vital leverage to keep the rulers in check”, it has failed to educate people to assert their claim to right to information, says a senior journalist. The press has also come in for rough treatment by terrorists and some individual politicians. The chairman of the Press


Council condemned increasing commercialism and corrupt practices and emphasized the need to arrest them.\textsuperscript{34}

A colonial law relating to official secrecy, the \textit{Official Secrecy Act}, 1923, remains an impediment in the effective exercise of the freedom of information. Despite these pitfalls, we must recognize that the contribution of media in revealing and highlighting human rights causes has been most impressive.

If we talk of globalization, we understand that the notion of globalization comprises all those processes by which people of the world are incorporated into a single world society. There are at least three historic phases of globalization. The first long phase of globalization accomplished colonial imperialism, over long stretches of time and space throughout the world. The second phase is marked by international efflorescence of concern for human rights and standards of international justice which will chasten the arrogance of sovereign power everywhere.\textsuperscript{35}

This phase is indeed different from the colonial / imperial phase. In the heady days of decolonization and self-determination of most of the people of the third world and the emergence of the United Nations system as a prime weapon of the weak, “globalization” signifies a new vision of the human future. This vision was concretized steadily in the sixties and seventies by the epochal enunciations of human rights. Thus, globalization in the second phase signified the articulation of a new culture and ethics of power, both nationally and internationally and has been termed as ‘globalism’.\textsuperscript{36} The third phase running concurrent with the second, has been marked by a steady rise of forces of late capitalism, manifesting multinational hegemony and the dominance of international financial institutions both emerging as suprastatal centres of authority.\textsuperscript{37} ‘Globalism’, in all its languages was tinged by the notion of an ethical state: politics was constructed as an instrumentality of pursuit of a good society. However, the passage from ‘globalism’ to ‘globalisation’ is marked by

\textsuperscript{34} V.S. Mani (January 1997), pp. 26-27.
\textsuperscript{36} \textit{ibid.}, p. 5.
\textsuperscript{37} \textit{ibid.}, p. 4.
discursive practices where collective interdependence becomes collective dependence of south on north; where consumption needs of the industrialized societies begin to enjoy ontological priority over the minimum basic needs of the wretched of the earth in the Third World; where resilient market friendly liberal ideologies provide the dominant vision of human futures on the eve of the twenty first century. \(^{38}\)

When we look at the economies of the developing countries, it remains cruelly correct that the globalization pattern has created and perpetuated an unprecedented and an extreme gap between the rich and the poor societies. \(^{39}\) The new division of labour is marked by dematerialization of production, in the sense that the advanced industrial countries export labour intensive production to the impoverished countries which enables flagrant violation of the human rights of the workers. Despite the tendency towards slow transition of transnational corporations, it remains true that multinational corporations dominate the process of globalization. The MNCs are new forms of sovereignty of late capitalism and resist with their might all claims to accountability and rule of law while claiming the fullest benefit of access to all basic human rights (including freedom of speech, right to property and the right to legal personality consistent with corporate will and power). In this sense, MNCs continue to reproduce the law’s infamy. \(^{40}\)

However, as far as globalization and recent developments in the management of transnational corporations are concerned, for example, legal rulings about the liability of corporate directors for the malfeasance of subordinates; advocacy pressures on corporations to make ethics a higher priority; the adoption by corporations of internal codes of conduct and values/mission codes; and the rise of corporate social audits of their policies and practices. All these developments pointedly raise the issue of corporate responsibility for protecting human rights. A few transnational corporations - for example, Motorola and Levi-Strauss - now explicitly recognize that they have responsibilities, for example, to avoid workers’ abuse, to monitor the practices of their business partners and the sub-contractors, to educate their employees and the partners about applicable human rights norms, and to cooperate with

\(^{38}\) ibid., p. 8.


\(^{40}\) ibid., p. 37.
other corporations and agencies in setting higher labor standards and supporting their enforcement.

These developments also represented acknowledgement by the agents of globalization-from-above that with power comes responsibility, especially when that power is a result of an implicit contract between states and corporations that in return for economic benefits corporations have the duty to operate in a socially responsible manner. In short, it would be myopic to overlook the positive role that can be played by transnational corporations in protecting and promoting human rights.41

Recently in human rights discourse, human rights education has assumed critical significance as an essential instrument of awareness of human rights. All human rights documents give a prominent place to the right to education. They also stress the importance of education in promoting human rights. The UNESCO has played a lead role in promoting education in human rights and had issued comprehensive recommendations dealing with various aspects of education in human rights in November 1974. Further, the World Plan of Action on Education for Human Rights and Democracy was adopted in March 1993 by the International Congress on Education for Human Rights and Democracy in Montreal (Canada). It emphasized that human rights education must be viewed as an exercise in democracy and teaching of human rights and democracy should be included in the curricula at all levels of school system.42

The World Conference on Human Rights held in Vienna in Austria in the year 1993 also asked the United Nations to accelerate the promotion of human rights. One important result was that the UN General Assembly proclaimed the years 1995-2004 as the World Decade for Human Rights Education. The UN proclamation says that the decade has its aim “the full development of the human personality in a spirit of peace, mutual understanding and respect for democracy and the rule of law”. The resolution says that such education should be


introduced at all levels of formal education and should be adopted in non-formal education called popular education as promoted by NGOs.\textsuperscript{43}

Human rights education is emphasized because it is assumed that awareness of rights will empower people to protect their rights and those of the others. It is assuming a lot of attention of human rights commissions, committees etc.etc. The reports of various education commissions and statement of the educational policy in India have articulated the importance of the right to education and education in human rights as a part of the effort for the reform and development of education in India. It has laid a special stress on national system of education for equality with reference to women, scheduled castes, scheduled tribes, minorities, handicapped and value education.\textsuperscript{44}

The National Human Rights Commission has also taken number of steps to spread human rights awareness in the country, encouraging universities for research and publication and to start courses in human rights at graduate and at post graduate levels. It is hoped that human rights awareness will trickle down from the established academic institutions and will reach the community. However, besides formal education of human rights, non-formal education, adult education and continuing education is also equally necessary to bring about changes in basic institution like family, school and work place etc.\textsuperscript{45}

6.2 Challenges Before the Human Rights Movement

It is indeed a welcome phenomenon of our times that universal faith in fundamental human rights and global awareness about the dignity and worth of the human persons as a part of the larger freedom is on the increase. At the same time it is a poignant paradox that the very humanist appeal is being used as a camouflage and sanctimonious strategy to hide the


\textsuperscript{45} \textit{ibid.}, p. 222.
hideous design of those who hold the neutron bomb in one hand and a politicized packet of “human rights” in the other.\textsuperscript{46}

It is a fact, though not sufficiently acknowledged, that in matters of human rights, the whole world is still embarked on a voyage of discovery. Any claim of moral or legal certitude by the human rights movement would be premature. Makau Mutua, an American academic, says, “there needs to be a realization that the movement is young and that its youth gives it an experimental status, not a final truth . . . . Like earlier crusades, the human rights movement lacks the monopoly of virtue that its advocates claim”.\textsuperscript{47}

Like other social movements, human rights movement has a fair share of individuals, institutions and many professional human rights activists who are driven by ideology and dogma, rather than by a sense of genuine commitment to the notions of human rights, familiarity with social realities, and sense of pragmatism and common sense. There are often inconsistencies in the articulation of the human rights ideas and principles which led to myriad problems and which threaten the credibility of the movement. It is important for human rights professionals to recognize that human rights are subject to interpretations. It is entirely possible for different cultures and societies to interpret human rights differently, in accordance with the values that underpin those societies. The unwillingness of many in the human rights movement to accept this reality has manifested itself, first and foremost, in glaring inconsistencies in their approach to fundamental issues - inconsistencies which most ordinary people find difficult to understand or overlook.\textsuperscript{48}

F.A. Hayek, a renowned philosopher, is of the view that over-reliance on democracy can be dangerous. Such reliance is largely responsible for the misleading and unfounded belief that so long as the ultimate source of power is the will of the majority, the power cannot be arbitrary. Indians will remember that assault on human rights and democracy by the country’s emergency parliament, which demonstrated that an elected government with unchecked powers can also pose threat to democracy and the protection of the rule of the law.

\textsuperscript{46} S. Parameswaran (July 2000), p. 85.


challenge to the human rights movement lies in advancing its goals without alienating large number of ordinary, law abiding citizens.\textsuperscript{49}

A curious paradox about the modern human rights movement is that, whereas activists and NGOs constantly demand a very high degree of accountability from governments and other targets of their campaigns, they do not always show the same amount of eagerness to account for their own actions. No accountability exists towards the public at large, and sometimes even accountability towards the membership is poorly organized. Thus the legitimacy of NGOs is not beyond doubt, depending on the circumstances of each case. This also means that this can hardly be said that the positions defended by NGOs are necessarily better in tune with the philosophy of human rights than the official position of a government.\textsuperscript{50}

Another unfortunate aspect of the human rights movement is its reluctance to acknowledge that rights carry with them responsibilities and unless those responsibilities are discharged, the stability and order that are necessary for the enjoyment of human rights would simply vanish.

Moreover, the trust and understanding that is necessary for any real progress to be made in the matter of human rights cannot be created and maintained unless the human rights community realize that the evolution of human rights is a slow and gradual process and the objectives of human rights activism cannot be fulfilled if public opinion is not taken fully into confidence. Rather no national machinery established for safeguarding human rights can be expected to operate satisfactorily unless it is supported by an informed and effective indigenous public opinion.\textsuperscript{51} One must understand that human rights flourish where there is permanent peace, stable political institutions, traditions of freedom, economic and social well being, ethnic and cultural homogeneity and harmony etc. All these conditions hardly prevail in any country. Thus, it can be said that if the nations advance towards creating these conditions, there is every reason to believe human rights becoming a reality in national and international affairs.\textsuperscript{52}

\textsuperscript{49} ibid., p. 339.
\textsuperscript{50} Christian Tomuschat (2003), pp. 232-33.
\textsuperscript{52} S. Parameswaran (2000), p. 85.
The present human rights movement is spearheaded mainly by the Indian middle class, the NGO activists, the press personalities and also by the intellectuals. There is a need to understand the middle class aspirations, their attitudes and sufferings which lie embedded in the objectives of the human rights movement. Modern education combined with the increasing consciousness of the civil rights in one way and growing economic disparities within the Indian population in another constitute the important stimulus behind their joining in this movement.

The approval of the parliament regarding the enactment of the *Protection of Human Rights Act, 1993* and consequent establishment of the NHRC is the clear indication that the nation states concede to the truth of ongoing human rights violations all over the country. Conferring autonomous status to the Commission, the nation state proved that its prevailing mechanism is inefficient to deal with the causes of human rights violations. Human rights violations are more objectively felt in selective socio-economic and developmental contexts. The practices of untouchability and bonded labour are the examples of socio-economic forms of human rights violation. Displacement in the course of establishment of large industries, big dams and opening up of mines is considered to be the developmental context of human rights violation.

The present human rights movement has not yet gone through an impressive beginning in the rural areas where there occurs larger cases of human rights violations. The movement has been confined to the upper middle class. The scheduled castes, the scheduled tribes and women for whom this movement is primarily meant, are negligibly participative in this movement. The recent studies have highlighted that the voluntary groups and social activists, who are usually from outside the oppressed classes, used to lead this movement. They have initiated the process of sensitization of the oppressed communities and social collectivities; they help the communities in identifying the agencies and institutions of oppression, they take the leadership in raising protest against oppression and generating self confidence amongst them in the assertion of their right. In reality it needs for the oppressed classes themselves to directly participate in the movement. It is therefore conceived that the persuasion of

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participatory and emancipatory policies would be an effective technique for fighting the causes of the human rights violations.\textsuperscript{54}

The biggest and the most sinister violation of human rights in India is the cynical and derisive attitude of those in authority to the issue of survival of this nation as a civilized country. It is this scornful impatience, this derisive cynicism to values that we see all around which constitutes some of the most embarrassing realities of our predicament today.\textsuperscript{55}

Presently, the movement for human rights is overshadowed by a dismal political situation characterized by all-pervading corruption in the political and administrative apparatus of the country, by criminalization of politics and by the inability of political parties to form a stable government. It will be found, however, that if the movement for human rights is developed from below by voluntary organizations not interested in power politics, the situation is capable of being substantially improved in the near future.\textsuperscript{56} It is the responsibility of the human rights community to ensure that their actions reflect a certain degree of ideological, political and moral coherence and that they do not engage in partisan politics.\textsuperscript{57} Again the part of the problem is that many in the contemporary human rights movement are not sufficiently willing to engage in an objective analysis of the present state of human rights realities.\textsuperscript{58}

The human rights movement should not assume that it alone is interested in ensuring transparency, accountability and good governance and that other interests groups in society, including governments, operate only on behalf of vested interests. Governance is a complex process which requires the concerted effort of a number of actors, including the government, non-governmental organizations, private sector actors and the people. Good governance is about the actors exercising power and authority in a responsible manner. No particular individual or institution can assume the right to a high moral ground in the governance

\textsuperscript{54} \textit{ibid.}, p. 71.
\textsuperscript{57} Venkat Iyer (2007), pp. 338-39.
\textsuperscript{58} \textit{ibid.}, p. 342.
process. The human rights constituency should be ready and willing to face criticism on some of the approaches adopted and the tactics followed by it to express dissent.\(^{59}\)

Human rights activists have come under repeated attacks in recent times. Right to information activists have also been killed and many have had cases filed against them. Journalists have been jailed in criminal defamation cases, have been attacked, some of them even killed, and media houses have had their offices ransacked. A number of civil rights activists have been implicated and imprisoned in false but serious charges like sedition, many of them have been facing charges under draconian laws and various security laws legislated by different states. The situation has never been so dire. Any voice against the atrocities by the state is met with a bitter and prompt state vendetta. It is the need of the hour that these human rights activists should be protected in India today. There have been many initiatives in the country on defending the defenders and several organizations have developed expertise in various areas such as documentation, action alert, approaching the UN system, legal aid, medical aid, counseling and so on. These initiatives have developed as a response to the cry from the grass root activists who have been hounded by the police in many states. However, the attacks on the activists have assumed a Frankenstein proportion.\(^{60}\)

One of the urgent tasks before the human rights community in India is to consistently focus on the root causes of human rights violations, both nationally and internationally, and its specific political context. The war on terror is an attack on the rights and dignity of the workers, urban and rural poor. There is also a need to focus on the fact that the human rights violations on a world scale are due to the unfair terms of international trade and have resulted in the destruction of millions of cultures, economies and ecology. Documenting and exposing the growing role of intelligence agencies in the disinformation campaign and their penetration into the ranks of movements, including the human rights movement are also required. The argument that human rights must be sacrificed for national security, must be countered. As a matter of fact, the preservation of human rights standards is perhaps the only way to ensure that our nation remains secure, as violation leads to greater alienation of the victims. It is

\(^{59}\) ibid., p. 345.

absolutely true that human rights is the most evolved form of the western imperialism and it has been used selectively to justify gross human rights violations.

It is equally true that human rights is also the only common language and framework for the oppressed and the victims of that imperialism. The Universal Declaration of Human Rights (UDHR) is a product of thousands of struggle the world over and it needs to be evolved and become more inclusive, especially of collective rights. Human rights movement in India has rallied around fundamental rights guaranteed in the Constitution of India as human rights.61

6.3 Future of the Human Rights Movement in India

History, especially the current history, always presents the confused pathways. It is difficult to foretell with any degree of assurance, despite advances in futurology, where the future of human rights or indeed any future may lie. In this situation, the only reflexive task open to human rights communities consists in “planning ahead”. The chief executive officers of the leading multinationals are preoccupied with planning the futures of the global capital movements in 2025 A.D. even as, remarkably, they confine the energies of human rights activists to perfidious instances of the “local-in-the-global” causation of human suffering. The fin-de-siecle need and ordeal for human rights communities worldwide, is to develop an agenda of action to arrest the paradigm-shift, without them converting themselves into new bureaucrats of human suffering. To some this may seem an insensible challenge, as nothing seems more ludicrous than sailing against the wind. What is necessary is to combat this kind of mind-set. Human rights futures dependent as they are upon imparting an authentic voice to human suffering, must engage in a discourse of suffering that moves the world.

Over a century and half ago, Karl Marx put the notions of human rights future presciently when he urged that they are best born when the following twin tasks occur: when suffering humanity reflects and when thinking humanity suffers. There is in fact no better way to unite the future of human rights to human suffering.62 Human rights activists in the 1950s, the 1960s and the 1970s adopted a balanced approach in their campaigns. They realized that although human rights is an evolving concept, any change, if it is to command public

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confidence, has to be gradual rather than revolutionary and this approach appears to be ignored by many of the contemporary human rights activists who lay greater emphasis upon the pace of change rather than enjoying universal support.63

Human rights are mostly an amalgam of social, economic, political, psychological and even technological problems which are interlinked and so cannot be confined to the traditional classification of civil and political as contrasted to social, economic and cultural rights in view of the fact that India has become a party to these covenants by ratifying them.64

The status of the third generation of human rights like the right to environment, right to development, right of the people to self determination, right to common heritage of mankind, among others, as endorsed by the respective bodies of the United Nations in the new world order is found to be of utmost importance to the third world countries. The third generation has not been fully crystallized and it has to be adequately developed in the twenty first century.65

The twenty first century envisages that each and every country of the world should arrange its national and domestic jurisdictions so as to match literally with the global standard, set by the world community through the medium of the United Nations and other regional bodies. The Asian region unlike the Africa, the America or the European Union has not yet done spadework so as to mould the Asian consciousness of human rights in to a consensus and install the Asian Human Rights Commission and the Asian Human Rights Court.66 Although there have been several efforts to fashion a region wide Asian NGO Commission, complete with a declaration of standards, but none have yet gained the sort of acceptance and authority that would make them a substitute for an intergovernmental mechanism.67

The establishment of the regional human rights mechanism might be a breakthrough to support the regional settlement of disputes and to reduce human rights violations, which is

66 ibid., p. 25.
consistent with the purposes of the UN Charter. Delivering keynote remarks, former Assistant Secretary General of the UN, Mr. Kul Chandra Gautam, pointed out that despite the national human rights mechanism being the most important and the most effective mechanism for recognition and respect of human rights, the regional mechanism can complement the national mechanism, especially in addressing the cross border issues.\textsuperscript{68}

The post colonial politics in India is proving to be as adventurous as the anti-colonial politics. Its dynamics will decide how inclusive will the Indian democracy be; how much will it try to make up for its intrinsic deficit; and how much will it live up to the challenge that the human rights revolution has posed for it, namely, is it the given structure of democracy that will define rights and its contours and its limits, or is it the rights revolution that will mould and re-mould the Indian democracy. Indeed the post-colonial politics is showing that it has something to offer as the universal lesson of democracy.\textsuperscript{69}

Human rights scholars have begun to recognize that the global economy and the global climate may have massive implications for human rights. This takes us beyond law to a number of technical disciplines that have recently not appeared on the human rights radar.

Authoritative policy statements are needed on the human rights dimensions of preventive strategies to deal with major threats to humanity such as the climate change and the water shortage. The human rights dimension should be central to strategies for tackling these threats.\textsuperscript{70} Moreover, the state-individual model of human rights, which international human rights law inherited from Locke, must be expanded to tackle the contemporary and probable future threats to human rights.\textsuperscript{71}

The social scientific study of human rights should give priority to the primary centers of power and to the possible sources of resistance. The study of human rights should be integrated with the political economy, development economics, conflict studies and the


\textsuperscript{70} Bertrand G. Ramcharan (2010), p. 127.

\textsuperscript{71} Michael Freeman (2011), p. 207.
politics of democratic transition. The political theory of human rights has since Locke, accorded to the rule of law a central place in the protection of human rights. This is no doubt correct. Nevertheless, both the theory and the practice of human rights, have suffered from being excessively legalistic. The kind of economics practiced by the economists like Amartya Sen and the kind of applied moral philosophy developed by Martha Nassbaum may have more to contribute to the advancement of human rights knowledge than refined legal analysis of human rights texts. The social sciences have, after too long a delay, have begun to take human rights seriously. We should hope that this welcome development be accompanied by human rights activists taking social sciences seriously.72

If we want a change which will go a long way in establishing a secular society where the dignity of the individual will be respected, we need to have a movement which must be heralded by creative intellectual activities, and not by the establishment. Such a movement for peaceful revolution can only grow in an atmosphere marked by intellectual clarity and honesty. It should then be possible to uproot anything that stands in the way of a peaceful revolution.73

Human rights education, which is essential for the formation of a public opinion and the generation of public pressure for compliance with human rights, is considered to be a sine qua non for the observance and advancement of human rights. Knowledge of human rights is essential as a tool for the observance and the promotion of human rights and for the creation of a climate of public opinion in which gross violations of human rights are unacceptable.74

If India is to reach the critical threshold of education and human rights where high economic growth rate and social development are to be sustained; efforts to ensure ‘Education for All’ have to be continued on war footing. India faces these challenges with many assets. Its education system is endowed with a strong policy framework with significant political commitment from the centre and the state governments. Its education programmes are highly

72 ibid., pp. 210-11.
innovative, fairly well financed with a strong focus on quality with equity. These assets should take India to its destination.\textsuperscript{75}

With the growing violations of human rights in the present multidimensional societies, the NGOs will be required to expand their activities in prevention of human rights abuses and in protecting the basic liberties of the people by following primarily the path of public education along with creating the necessary infrastructure for protection and promotion of human rights at the grass root level. The task of NGOs is all the more difficult in the developing countries like India where the masses are in horrible state of ignorance and poverty.\textsuperscript{76} These NGOs represent the future of the human rights movement as they face their governments daily to assert violations of universal freedoms. They are likely to play a key role in coming years, not only in monitoring and exposing abuses, but in standard setting as well.\textsuperscript{77}

Non-state participants are constantly apprising and clarifying the common interests of our ever changing community. While necessarily drawing upon history, they forced us all to look to new constitutive and institutional arrangements to apply those standards to which we are all committed. A result of this appraising and promoting is the recently created United Nations High Commissioner for Human Rights. This is a hopeful development for human dignity in the post-Cold War international system. Therefore, it is highly applaudable that the growing number of human rights monitors and advocates who have the courage to continue their work at the great personal risk are the reasons of hope for all of us.\textsuperscript{78}

Further, the people should be vigilant and keep the state alert that they care for their rights and will not let it deny or curtail them. They must have a provision for legal as well as political action if the state tries to deny them their rights.\textsuperscript{79} Moreover the pattern of violations

\textsuperscript{75} N.B. Mirza (2000), p. 228.
\textsuperscript{77} Dinah PoKempner (1997), p. 685.
in India is a clear indicator that the empowerment of the weak and the vulnerable is the key to the improvement of the human rights situation. Such an empowerment is not possible without state support and action. Therefore, there are few matters in which the state must keep off there are many more matters in which the positive state action is required. Unless the state undertakes the responsibility of taking such action human rights situation cannot improve.\textsuperscript{80}

For example, in case of the Bhopal gas tragedy, we can draw an inference from the response of the government and see the difference how people’s lives are valued across the country. It seems whether human rights and their violations are to be taken seriously or not, depends, among others, on the fact of whose human rights are violated and by whom.

If those ‘whose’ human rights are violated are not powerful or they are less powerful than by those who violate their rights, the chances of getting a redress, even with the help of a state, are significantly lesser. It is, therefore, imperative to move beyond entrusting the future of human rights solely, or even excessively, to states. The task will not, however, be easy. However, collective efforts on the part of media, NGOs, public-spirited lawyers/academia and other civil society organs are still worth pursuing, because by doing so, we can pay tribute to thousands of those who have paid and are still paying the irreversibly heavy price for Bhopal and contribute to future of human rights in India.\textsuperscript{81}

It is again required that the individual and the state, in close cooperation with each other, must work out a strategy that ensures empowerment of the weak and the vulnerable and also guards against the misuse of the state by the privileged and the powerful. We should not forget that human rights are about ensuring dignity of every individual in the society. True to the spirit and letter of the Constitution as well as of the human rights the state is required to take appropriate measure to remove imbalances that have been existing in the Indian society and ensuring human rights for all for the better future.\textsuperscript{82} Also poverty alleviation strategies should in the future, be built on preventive approaches, with the accent being on preventing poverty where it could be done using existing resources within a country. At the end of the day, this is the task of an efficient governance.\textsuperscript{83}

\textsuperscript{80} \textit{ibid.}, p. 37.


\textsuperscript{82} Mahendra P. Singh (2008), p. 37.

\textsuperscript{83} Bertrand G. Ramcharan (2010), p. 127.
Thus we find that a vision, language and culture of human rights have become integral to the survival of the individual, community and the society in the twenty first century. The twenty first century challenges the vision of human rights since it faces new challenges that require clear, thoughtful, intelligent responses to a range of human rights issues and problems. The language of human rights is considered to be an indispensible tool in protecting, explaining, exploring and nourishing the rich diversity of our humanity.84

Moreover, the situation of inter-community tension and clashes pose difficult problems before the human rights movement. A question arises: Should human rights organizations intervene (and if so, how?) only when the clashes have become violent and the state steps in for law and order purposes? In which case, the movement can issue its usual denunciation of the state. Or should it evolve for itself a non-partisan political role? Is not intervening to avert violence more important than ex post facto lying of blame?85

While the gross violations of human rights continue to be numerous and shocking worldwide, and while humanity is faced with serious threats and challenges, preventive strategies are few and attention to their human rights dimension fewer still. The human rights movement must modernize and place the emphasis in the future on preventive human rights strategies. As a matter of policy and conscience, one should strive to prevent violations of human rights before they take place. At the national level there are few such bodies as human rights commissions issuing periodic reports, pointing out imminent or future risks to human rights and suggesting preventive strategies.86

It is required that every country should, once every five years, commission an analysis of threats of gross violation of human rights with a view to take preventive action. Such an analysis should be performed by the National Human Rights Commission which in turn would include a threat assessment in its annual report. The UN High Commissioner for Human Rights, being the spearhead actor of the human rights movement, could possibly

activate and motivate the NGOs and research worlds to pay more attention to the need for preventive strategies. The High Commissioner could take the lead in identifying topics in relation to which he or she would like to see attention to preventive strategies from the human rights movement, and call upon NGOs, the research community, regional and global bodies to contribute.  

Human rights strategies of governance should apply to all organs of the society, including corporations. It should be the shared mission of all to advance the basic rights, and none, should be guilty of violating them. It is the duty of the government to respect human rights and it should not claim difference of culture, religion or social system as a pretext for non compliance. The future of human progress and prosperity will depend upon the future march of the democratic idea. This is because of the simple truth namely, that in numerous countries across the globe, unrepresentative, inefficient and corrupt governments are blight on their own people. The rolling perspective of the history of human rights idea has brought us to the stage where the UDHR proclaimed that the will of the people shall be the basis of the authority of the government. The world conference in Vienna has re-endorsed this precept. So, we can say the future of human rights lie in inventing forms of participatory governance.

Moreover, it is to be ensured that in a country like India, every state should have adequate and effective human rights protection system that is capable of spreading a culture of human rights and stepping in wherever protection is necessary. Wherever this protection fails the national and international community should be entitled to step in and supplement or substitute the system the way it is necessary.

### 6.4 Conclusion

As mentioned above, although the human rights movement in India has been successful in mitigating some serious forms of oppression, and has kept alive the spirit of democracy in
India, it is not without its limitations. It is rather a tragic truth that sixty five years of independence have not created an atmosphere for a human life of dignity and well being though the acceptance of human dignity and a guarantee of human rights are the minimum essence of democracy which India boasts of. The fundamental rights provided in the Constitution of India and the promises of human rights would mean something real to all Indians if the system would respond positively to the demands of the needy, neglected, the hapless women, the bonded child etc. The problem is not that we do not have enough laws or we are not aware of human rights. The problem is because of the insensitivity of the people those who matter in the system. The difficulty is also of the right attitude towards the problem.

The twenty first century seems to have begun with the future of human rights uncertain. A complex and finely judged mix of states and NGOs, of external and internal actors, provide the best hope for human rights in the coming years. For successful implementation of the human rights a free and impartial judiciary is required. In India, the judiciary and particularly the higher judiciary, has served the cause of human rights. However, there should be every effort to maintain and uphold the rule of the law in all its aspects. Moreover, the people’s movement for successful and judicial working of the institutions of democracy has to be strengthened with more stress on the accountability of these institutions. A massive effort is required to educate vast majority of the people about the exact role of the state and the incorporation of the human rights in all models of human existence. This would in turn help to lessen the overestimated role and authority of the state. In recent years, it has become apparent to the observers as well as the practitioners of mass communications that human rights are more newsworthy than it was. Media have become interested not only in violations of human rights, but in the institutional apparatus that has been designed to promote and protect human rights.

The government should bear in mind that any economic rejuvenation plan must have an element of egalitarianism and protection of weaker sections at all levels. It must be admitted that every developing country has its own difficulty in arriving at a consolidated thinking on the promotion and protection of human rights. This is because of a very special kind of consideration the country is in. However these difficulties must not be advocated as justification for abrogation of human rights. On the contrary, there should be an examination in to them while building a course on human rights. Generally the views on the human rights
of the most oppressed are not articulated, or when articulated are not heard. They are the worst victims of the denial of human rights and in desperation they turn to violence or other dramatic challenges to authority. Important and articulate groups are the intellectuals who are alienated from the state, and for the most part are not apologists for the regime. Intellectuals respond to and engage in international debates; and like the NGOs they form networks with their counterparts in other parts of the world and have a sense of commitment to human rights and democracy. “The very agenda of human rights today is the rehabilitation of the culture of globalism, reclamation of the lost languages of social justice and dependent upon it the construction of practices of solidarity. It is our prime task to recover from the debris of enlightenment thought elements in post-modernisms which energize rather than enervate vision of human emancipation. It is this vision which globalization threatens. “Think globally and act locally” is a maxim confiscated of its meaning in an era when the “local” becomes the ghetto of the global. The new world imperialism is in the making of globalization. If we are to combat it the historically available repertoire of strategies is furnished by globalism, which repudiates the maxim: ‘The North knows the Best’”. Finally it is well said that the politics of protection and promotion of human rights is very much harder than the politics of domination and violation and the future of human rights in India lies hidden in it.