Chapter - 1

Introduction

The concept of human rights is as old as the concept of rights as such. In fact, each and every movement of rights is closely interlinked with the movement of establishing human rights. We can trace the root of human rights in the English Bill of Rights (1689), The American Declaration of Independence (1776), French Declaration of the Rights of Man and of Citizen (1789), Magna Carta of 1815 and the classic statements of natural rights by the English Political Thinker John Locke.

It is true that awareness of human rights is a necessary precondition of its enjoyment and this difficult task has been efficiently done by the United Nations (U.N.O.). From this international platform, the concept of human rights has now taken a definite and concrete shape and has become a world subject. On 10th December, 1948, the adoption and proclamation of the Universal Declaration of Human Rights by General Assembly is an important step to give the concept as global character.
Problem of the thesis

It is proved that human rights as a key factor today in the evolution of a more worthy human condition. While the thirty articles of the Universal Declaration of Human Rights answered that what are human rights, the Preamble of this “International Bill of Rights” explained the question of ‘Why Human Rights’? But the unavailable problems have been facing by different countries in the form of such questions as - how can we protect human rights of all sections of the society ? How can we spread consciousness about the importance of human rights in the society? What are the mechanisms should we follow in this regard? - I am very much interested about these types of questions. In my research work I have discussed the concept of rights and human rights ; I have touched upon the importance, necessity, structure and evolution of National Human Rights Commission (NHRC ) in India and discussed in detail the structure, function and effectiveness of the West Bengal Human Rights Commission (WBHRC ) as the instrument of promotion and protection of human rights.

Every society creates legitimate authority supervising the relation of its members and their relationship to the authority. These authorities, in other word the governments; have set up certain institutions to protect and promote the human rights as well as to frame policies after debates and discussion. The uniqueness of this thesis is that it has selected the scenario of...
West Bengal where now-a-days; the violation of human rights is very common issue. Therefore, the focal point of my thesis is the evaluation of the work procedure of WBHRC and also the role of the Government of West Bengal in this regard. I think it is very important because through this the West Bengal Government has been trying to shape the concept of human rights in reality.

Scope

The thesis examines the functioning of the West Bengal Human Rights Commission (WBHRC) till the period before the formation of the present Government in West Bengal by Ms. Mamata Banerjee. The focal point of my thesis is the scenario of west Bengal and the role of the WBHRC to protect and promote human rights especially of the Left Front Government and I have also discussed cooperation and coordination between the activities of the WBHRC and the Non-Governmental Organizations (NGOs) in this regard during the above period.

Subject-matter of the thesis

The subject matter of my thesis directly relates to a very relevant global subject, that is, human rights. In fact, human rights as a key factor today in the evolution of a more worthy human condition. It is
undeniable that violation of human rights in the society of West Bengal is very common. In West Bengal, the Left Front Government has been in power for about three decades and now we have been facing political change that creating political disorder. In this changing situation the State Government has been failing to some extent to promote, even to protect the human rights of the masses. Various revolutionary groups of people have been creating continuous pressure upon the Government on one hand and civil society has been very much sensitive towards their demands on the other hand. So, protection of human rights is an important issue so far as the society of West Bengal is concerned.

The course of analysis in this research endeavour begins with the examination of the theoretical background of the concept of human rights in order to understand the basic principles of the concept and its perspective in the Indian context. The study later examines the establishment, structure and status of the WBHRC, which highlights the valid reasons for its formation. It also elucidates the role played by WBHRC in the protection of human rights. The WBHRC's role within the state, as well as externally in coordination with other national and state level NGOs working in the field of human rights has also been emphasized. Finally, the overall outcome of the
course of research, as well as the questions arising for further research have
been presented.

The main area of this thesis is the Scenario of West
Bengal where violations of human rights are very common now-a-days and the
role of the WBHRC in this regard. I have tried to make my thesis as
analytical as possible in its approach. As the subject of this thesis is relatively
less explored, I could not find much material available in secondary sources.
Therefore, this thesis has been largely based on primary sources like annual
reports of the WBHRC, Home Ministry document, judicial decisions, media
reports, etc..

Literature surveyed

From the early stage of my research I have gone through a
number of literatures. I have found the various studies made so far, make an
attempt towards analyzing the human rights conditions in India and discussed
the structure, formation, functions of the National Human Rights Commission in
India. A brief survey of the literature available so far is as follows:-
"Human Rights To-day" by Maurice Cranston is an important document to understand Human Rights, the difference between rights and human rights, morality and rights and also the work of independent agencies.

Darren J O'Byrne in his famous book "Human Rights ; An Introduction" has provided summaries of research carried out on specific issues, and has structured according to the various themes which have generated most intellectual interest. The violations and rights discussed throughout the bulk of this book pertain to civil and political rights.

"Human Rights : Universality in Practice" by Peter R. Baehr is an effort to emphasize the political aspects of human rights, without ignoring their legal nature. The writer has given the crucial importance of non-governmental organizations in the promotion of human rights.

Bani Borgohain in his book, "Human Rights - Social Justice and Political Challenge" tried to bring together various articles, papers, excerpts, comments and abstracts from a wide variety of sources, both Indian and foreign countries. He also examined international standards for the protection of human rights and then compared them with that of Indian standards.
The Protection of Human Rights Act, 1993 along with the Amendment Act, 2006, is a documentary source provides for the constitution of a National Human Rights Commission, State Human Rights Commissions in different States and Human Rights Courts for better protection of human rights.

“National Human Rights Commission of India: Formation, Functioning and Future Prospects” by Mr. Arun Kumar Palai is a pioneering work on the subject. It is a useful work for those interested in knowing the functioning of the fledgling institution monitoring an important aspect of India’s democratic governance towards ensuring accountability and transparency in the exercise of state power, particularly its coercive authority. It acts as a source book so far as the National Human Rights Commission is concerned.

“Human Rights: Questions and Answers” by Leah Levin deals with the detail discussion about different articles of UDHR through questions and answers. Attention is also paid to the development of procedures in the field of human rights protection as well as to the importance of human rights education.

Upendra Baxi in his work, “The Future of Human Rights” seeks to decipher the future of protean forms of social action assembled, by
convention, under a portal named 'human rights'. It problematizes the very notion of ‘human rights’, the standard narratives of their origins, the ensemble of ideologies animating their modes of production, and the wayward circumstances of their enunciation. Throughout the work, he insists on the distinction between politics of human rights and politics for human rights. Central concern of his book is the ‘troubled’ relationship between human suffering and human rights.

"The History of Human Rights" by Micheline R. Ishay is a valuable source of the study of human rights from ancient times to the globalization era through the media of historical text, cultural traditions, architecture and artistic displays.

"The Universal Declaration of Human Rights" is a basic document provides the thirty articles of the sacred declaration. It acts as the primary source so far as the concept of human rights is concerned.

From the above-mentioned literature, it is clear that almost all writers have dealt with the concept of human rights; its theoretical, legal, and political aspects; the structure, formation, nature of functioning of National Human Rights Commission. But none of them have explored the basic of the formation, nature and functioning of the West Bengal Human Rights Commission. A detailed study on the WBHRC still remains unexplored. So, the present research endeavours to examine all the factors and features which are responsible for the formation and functioning of this new organization, such as, annual reports of WBHRC, records collected from the office of the WBHRC, etc.

**Hypotheses to be tested**

This thesis is based on a number of hypotheses. They are the following:-

Firstly, *Human Rights as a concept is both old and new; the thrust areas have been changed over the years.*

Secondly, *The main objectives of National Human Rights Commission and the West Bengal Human Rights Commission is to identify*
the areas of violation of Human Rights by individuals, groups, political parties and the State and to take proper remedial measures.

Thirdly, Ideologically the West Bengal Government under the Left Front has been quite alive and sensitive to the promotion of human rights of the masses, but in practice the records of the State are not at all satisfactory.

Fourthly, The State Human Rights Commission has been quite ineffective in enforcing human rights and sometimes the NHRC are directly taking up the cases from WBHRC.

Lastly, Despite failures there are some cases where the WBHRC has been able to enforce human rights through the participation of NGOs and positive action of the Government. The focal point of my thesis is the scenario of West Bengal and the role of WBHRC to protect and promote of human rights in the society. I have also discussed cooperation and coordination between the activities of the WBHRC and the NGOs in this regard.
Methodology

So far as methodology is concerned, I have taken the help of Descriptive Method, Analytical Method, Interview Method, etc. I have analysed a number of books, journals, articles, annual reports, etc. necessary for acquiring the knowledge about the activities and structure of the WBHRC.

Chapterization

Chapter I: ‘Introduction’ - It is an attempt to introduce the whole work.
Chapter II: ‘Concepts of Rights and Human Rights’. It provides a survey of the major philosophers and commentators who have contributed to the evolution of the idea of human rights. In this chapter, I have discussed the relation between rights and human rights and the different dimensions of Human Rights.

Chapter III: ‘Evolution of Human Rights Commission in India in the light of the Universal Declaration of Human Rights (UDHR) and Indian independence’ - It mainly deals with the national context and the international situation of establishing Human Rights Commissions in India both at the centre and the states. This chapter provides an overview of the
comparison between the provisions incorporated in UDHR and the provisions related to those incorporated into our Constitution.

Chapter IV: 'The West Bengal Human Rights Commission: Structure, Processes and Effectiveness'- in this chapter I have discussed in detail the structure, functions, processes of the WBHRC according to the Protection of Human Rights Act, 1993(Amendment Act, 2006) and the reality and to discuss the actual scenario, I had to depend on various articles, newspapers, annual reports, etc.

Chapter V: 'West Bengal Human Rights Commission - in action'. This chapter deals with the scenario of West Bengal and the proper functioning of the WBHRC through taking up the cases of violations of human rights, enquiry into those cases, recommended to the State Government and the steps taken by the State Government. I have picked up various cases from the annual reports of the Commission and also made a chart containing the number of cases, number of recommendations, number of the cases disposed of, etc. I have tried to focus the relation between the WBHRC and the NGOs working in the field of human rights.

Chapter VI: 'Conclusions' which pinpoints three things - i) the principal findings of each chapter of the thesis; ii) the relevance of the
hypotheses of this work, that is, I have tried to examine of the hypotheses have been tested in which chapter; iii) the personal assessment of the functioning of the WBHRC, and some suggestions.

Sources

I have mentioned earlier that any book has yet not been published by any author containing the structure, functions, processes, activities, effectiveness of the WBHRC. Naturally, I had to depend very much on the primary sources, that is, journals, personal meetings, annual reports, newspapers, etc. I have visited the office of the WBHRC several times and met with the existing Chairperson, Ex-Chairperson, other Members of the Commission. I have conducted interviews with them and have collected many materials and gone through many files conducive to my research work. I have also visited different places to collect information to cover the areas of this thesis, such as -

a) National Library, Kolkata.

b) The Ramkrishna Mission Institute of Culture, Kolkata.

c) Central Library, The University of Burdwan.

d) Seminar Library, The Department of Political Science, B.U.


f) Departmental Library, Jadavpur University, Kolkata.