CHAPTER SEVEN
CONCLUSION AND SUGGESTIONS

7.1 Introductory

Being a student of history, I am of the view that the essence of history lies in understanding the present with the help of analysing the past and predicting the future. As has been well said by one of the distinguished and eminent historians, E.H. Carr, “history is an unending dialogue between the past and the present”.¹ Thus the purpose of history lies in understanding the present with the help of past and then predicting future. Similarly our reading of the past and understanding of the present are interdependent, and the selectional criteria that is central to interpreting the past as far as human rights are concerned have to take note of the relevance of the different concerns in the contemporary world.² If we look back, we see that India has come a long way since the attainment of its independence in the year 1947. Whereas we have many impressive achievements to our credit, it would be dishonest not to take cognizance of the number of severe failings that have also marked the past six decades. Therefore, in the present scenario, it is highly imperative that we clearly understand the nature and causes of those failings and put the lessons of the past to work in charting a future course.³ We are well aware of the fact that the history of mankind is closely linked with the struggle of individuals against injustice, exploitation and disdain. The recognition of human rights at the national as well as at the international levels is one of the most remarkable manifestations of this struggle. However, defining the term ‘human rights’ to give it a clear meaning is perhaps a very complicated task; as there is yet no universally agreed definition or understanding of the term “Human Rights”. Human rights have been defined and redefined according to the political needs, the moral imperatives and the local contexts. Therefore, any historical treatment of human rights has to take account of the series of political contestations that

occurred at multiple levels. Human rights advocates have disagreed with one another and with political leaders as how to define human rights and whether certain rights should take precedence over the others. They have argued over the universality of human rights and have also debated upon the appropriate mechanisms of their enforcement. These contestations make it impossible to construct a linear narrative of the progress made by the society over the past six decades. However that should not led to the assumption that no progress occurred at all even though human rights are as embattled today as they were sixty years ago. The history of human rights is local and global, particular and universal, and above all, it is a history of both advances and of the setbacks.⁴

‘Human Rights’ is a dynamic concept which endeavours to adapt itself to the needs of the day. From the women on the street to the United Nations Commissioner for Human Rights, from the local human rights activist to the government official, each one of us has a different conception and connotation of the origin, the purpose and the functions of human rights. Thus its understanding essentially depends upon the conditions and the opinions prevailing in a given society and at a given time and as such it attains new dimensions as history moves on.⁵ However, at the core, the concept of human rights deals with the idea of protecting individuals (and perhaps groups) from the abuse of power. The problem of human rights is intrinsically bound up with the social environments and the relationship that exists, at a given time, between man and the institutions on which his social existence depends. Like any other social norms, human rights possess historical character. To understand human rights, therefore, one must look through their history.⁶

However, when we turn back, the origin of human rights points to certain paradoxes, that is, paradox about history (how can a self-evident notion that claims to depend only on human nature has a history?); paradox about revolution (how can revolution be the origin, both of rights and the denial of rights?); paradox about universalism (how can equal, natural and universal rights be denied to someone?); and paradox about psychological origins (why are

women the focus of psychological identification if they are to be denied full participation as humans?). The paradoxes of human rights do not in any way diminish their historical importance or their relevance today. They simply measure the depth of the challenge that human rights posed to the hierarchical societies based on privilege and birth and the continuing challenge they offer to inequality, injustice and despotic authority of all kinds. As long as inequality, injustice and despotic authority endures, the self-evidence of “the inherent dignity and of the equal and inalienable rights of all members of the human family” will seem paradoxical.7

To recapitulate we can deduce that history has from times immemorial, the rights of man derived from religion, from human experiences, observations and that reflections have been a refuge against human might, a rallying cry for resistance to tyranny of oppression and against arbitrary rule. With the passage of time, these “rights” or established customs or “understandings” including the relationship between the ruler and the ruled, were brought together in different forms in various parts of the world.

After going through the entire study, one is likely to reach an inescapable conclusion that the human rights movement is also fighting both the religious chauvinism and the market fundamentalism politically as well as ideologically. It has been promoting secular humanism and has been voicing the concerns of the poor, the oppressed, the suppressed and the brutalised human beings. Its commitment to human rights is not merely based on individual rights but that which includes the collective rights of the people.8

In view of the observations made above, I would like to summarize the entire thesis in the following few paragraphs. After giving a brief overview of the discussion in the preceding six chapters, I would like to offer in the present chapter, a few workable suggestions to strengthen the human rights movement in future.


8 For further details, see: Vibhuti Patel (2010), p. 477.
7.2 Summary of the Chapters

Chapter One of the thesis entitled Introduction carries the background of the entire study. Besides giving an overview of the human rights movement from the ancient times to the modern times, I have stated the object and purpose of my study; have done an extensive review of the existing literature on the subject; have identified the research gap; have mentioned about the data base and methodology followed by me; have enlisted the research questions dealt with by me; have highlighted the significance and the likely contribution of the study; and have detailed the chapterisation plan of the entire thesis. It is in the light of the first and the introductory chapter that the entire thesis has been written by me apparently in an orderly and a coherent manner.

One of the underlying ideas expressed in this chapter is my observation that ‘Human Rights’ is a twentieth century name for what has traditionally been known as ‘Natural Rights’ or ‘the Rights of Man’. I have endeavoured to explain that the rights of man have been the concern of all civil societies from times immemorial and that human rights find mention in literatures of all languages and the religious scriptures of different communities of the world which shows their existence ever since the origin of the human race. As regards the global history of human rights, I have tried to demonstrate that the philosophical foundations of the concept of human rights had its origin in the liberal democratic traditions of the Western Europe - a tradition which in itself was the product of the Greek Philosophy, the Roman Law, the Judaeo-Christian tradition, the humanism of the Reformation and the Age of Reason.

I have further explained that the modern human rights movement that seems to have essentially commenced with the signing of the historic Magna Carta in 1210 A.D. continued till the signing of the Petition of Rights in 1628 and ultimately culminated in the Bill of Rights, 1689. In the 17th Century, the Social Contract philosophy of Thomas Hobbes, John Locke and J.J. Rousseau further helped in the evolution of the concept of human rights.

In the year 1776, the American Declaration of Independence was adopted whose significance did lie in the assertion that all men were created equal, that they were endowed by their Creator with certain inalienable rights like the right to life, liberty and pursuit of happiness. It also declared that it was the right of the people to institute new government to protect their rights and happiness. Inspired by the American Declaration of Independence, the French
National Assembly in 1789 formulated the Declaration of the Rights of Man. This Declaration was an obvious reflection of the ideals, which lay behind the French Revolution which further led the other European Countries to provide in their laws for the protection of human rights.

I have reiterated that the real development of the contemporary human rights jurisprudence started only during the nineteenth century which continued in the twentieth century. The abolition of the slave trade and slavery during the early 19th Century in Europe and thereafter in America, led to the recognition of the basic human rights at the international level. In the first half of the twentieth century, at the close of the First World War, international concern for human rights found expression in certain provisions of the *Covenant of the League of Nations*. Unfortunately the League of Nations proved to be an ineffective organization to establish peace in the world and ultimately ended in failure.

After the Second World War, the Charter of the United Nations Organisation was adopted in the year 1945 with the awed object of protecting the weak nations from the ravages of any future war. The provision of the UN Charter concerning human rights provided a strong foundation for the further protection of human rights. The *Universal Declaration of Human Rights* adopted by the United Nations General Assembly on 10th December 1948 marked a historic event. The Universal Declaration of Human Rights stated the basic hopes and the high aspirations that were common to the entire humanity living in the developed and developing countries, irrespective of caste, creed, sex or religion.

To give a binding effect to the *Universal Declaration of Human Rights*, the UN General Assembly adopted the Two Covenants on 16th December 1966, namely: (i) The *International Covenant of Civil and Political Rights (ICCPR)*; and (ii) The *International Covenant on Economic, Social and Cultural Rights (ICESCR)*. Later on, a large number of international conventions, declarations, resolutions and treaties were successfully adopted and entered into under the auspices of the United Nations that showed the solemn resolve of the international community to work whole-heartedly in its earnest quest for peace and tranquillity in the world infected with wars, conflicts, controversies and disturbances.

I am of the confirmed view that notwithstanding all the developments mentioned by me, perhaps the truth is that what the West has discovered about human rights now, India had embedded the same in its deep rooted tradition since times immemorial. As a matter of fact,
the Indian thinkers and philosophers had expressed concern to secure human rights and fundamental freedoms for all human beings everywhere since the times of the Vedic Age.

The chapter also contains a brief discussion on the progress of human rights from the ancient times to the modern times ending with the brief overview of the post-Vienna developments in the international arena and their impact on the Indian stances of human rights which, *inter alia*, include the mentioning of the enactment of the *Protection of Human Rights Act, 1993* and the establishment of the National Human Rights Commission thereafter.

In *Chapter Two* of the thesis entitled: *A Historical Overview of the Global Human Rights Movement*, I have made a modest attempt to trace the history of human rights from the ancient civilizations across the world covering the Babylon, the Greeco-Roman Period, the Middle Ages and then coming down to the Magna Carta (1215); the Petition of Rights (1628), the *Habeas Corpus Act* (1679); the *Bill of Rights* (1689); the American Revolution (1775-1783), which is said to have inaugurated the era of the declaration of fundamental rights; the French Revolution (1789) to the formation of the League of Nations and the United Nations after the First and the Second World Wars respectively.

An attempt has also been made in this chapter to cover the post Second World War developments with regard to the international human rights movement which, *inter alia*, include the discussion on the impact of the Cold War. I have tried to suggest alternatives, keeping in view the present challenges, to consolidate the human rights movement at the international level. I have reiterated that there is a need to understand that the early ideas about human rights did not originate exclusively in one location like the west or even with any particular form of government like liberal democracy, but were shared throughout the ages by the visionaries from many intellectually rich cultures in many lands who expressed themselves in different ways.

My discussion veers round the point that the eighteenth century was perhaps the most sceptical period in the history of the world and that there was something in the scientific attitude which turned the human mind ethic-neutral and to claim that moral values were not objective resulting in a process of dehumanization. After that, the twentieth Century became the bloodiest century in consequence. We are well aware of the fact that the two World Wars had a devastating effect on human peace and tranquillity. A few men of vision thought that there should be some philosophy to serve as a foundation for human behaviour, either
individual or collective, everywhere. This is how the Universal Bill of Rights recognizing an international standard for human behaviour in society and polity came to be recognized in the form of the Universal Declaration of Human Rights, to give every human being by virtue alone of his birth in the human family, irrespective of one’s situational differences of caste, creed, race and language, certain irreducible minimal rights. These rights were not conferred by the Universal Declaration. These great rights of man were self-evident and were always recognized as universal and inalienable and not as the ‘conferred rights’.

I am of the view that the past sixty years have seen truly monumental achievements of the international community in the field of human rights. This development has led to more interest and more involvement from states in the human rights foray of the United Nations. A part of this increased involvement is based on genuine interest from states in consolidating and improving the system, while others seem to be driven by a wish to control and reverse some of the achievements. There is no denying the fact that human rights is no longer a marginalized area that states can ignore or be indifferent. Moreover, the role played by the global media and the Internet disseminating human rights concerns beyond their territorial locus is highly desirable and commendable, too. Similarly the international as well as the non-governmental organizations have also played a crucial role in the development of the League of Nations and the United Nations as well as in the adoption of the Universal Declaration of Human Rights. Non-Governmental Organisations have mushroomed in number and scope in recent years and have been playing an important role in creating human rights consciousness in the contemporary world, thereby greatly influencing the human rights movement at the international and at national level respectively.

It is my confirmed belief that we must realize that the struggle for human rights truly begins at home, not just in home country, that is, within our own family and in the immediate neighbourhood. Of course, our future as a species also depends on our farsightedness as well as on our sense of human solidarity when it comes to human rights. We need to feel the pain and urgency of abuse whether in Tibet or in Gaza, as well as in our inner cities or in relation to the lost farms and the lost homes within our supposedly wealthy country. We need to be certainly mindful of the wellbeing of the future generations so that their life is not afflicted with disease, hardship and an authoritarian rule. Unavoidably, the vocation of human rights advocacy cannot be separated from the pursuit of justice in all domains of human existence. Human rights are ultimately about the quality of world order as was acknowledged but
ignored in Article 28 of the UDHR: Everyone is entitled to a social and international order in which the rights and freedoms set forth in this declaration can be fully realized. It is late, but not too late, to take this unnoticed promise seriously.

**Chapter Three** of the thesis is entitled: **An Overview of the Historical Evolution of Human Rights in the Ancient and the Medieval India.** The main focus of this chapter was to trace the roots of human rights in the ancient and in the medieval India. This chapter was also aimed at demonstrating the great human rights values that were implicit in the Indian culture since times immemorial and are still there. Alongwith that, I have made an attempt to reveal that the concept of rights was neither a gift from the Western World, nor was it a typical western monopoly of wisdom. Instead, I have tried to prove that its origins were very much rooted in the Indian civilization. One of my submissions in this chapter has been that human rights are historically conditioned and these do vary in accordance with the changes in the social, economic, political, cultural and other aspects of the society. Although the Indian tradition consists of variety of views and reasoning, however, they include, in different ways, the arguments in favour of tolerance, in defence of freedom and even, in the case of Ashoka, in support of equality at a very basic level.

The contemporary situation of human rights is characterized by the gulf that exists between thought and reality as well as between aspiration and achievement. Human rights are closely linked with person’s duties towards the society. The Indian view stresses on the performance of the duties instead of demanding rights. If all individuals perform their duties, the rights of others are automatically secured. The rights without duties carry no relevance. Therefore, in this chapter, I reached a basic conclusion that an in-depth analysis of human values and human rights is certainly required and that there is also a need for understanding of human rights with a new orientation in the light of the various contemporary realities.

In my own opinion, while discussing about human rights in the ancient India, it was premature to look for the well-articulated legal codes in the culture of two thousand years ago which might reflect human rights as we know them and desire today. In the ancient past, there were moments when societies incorporated the metaphysical ideals of human rights into their legal and social functioning. I have reiterated that the word ‘human rights’ is essentially a recent phenomenon, however, the spirit is as old as the human civilization. Here the words of A.L. Basham, an eminent international historian, deserve special mention who says: “At
most periods of her history, India, though a cultural unit, has been torn by internecine war. In statecraft, her rulers were cunning and unscrupulous. Famine, flood and plague visited her from time to time and killed millions of her people. Inequality of birth was given religious sanction, and the lot of the humble was generally hard. Yet our overall impression is that in no other part of the ancient world were the relations of man and man, and of man and the state, so fair and so humane. In no other early civilization were slaves so few in number, and in no other ancient law book are their rights so well protected as they were in the Arthasastra. There was sporadic cruelty and oppression no doubt, but, in comparison with conditions in other early cultures, it was mild. To us, the most striking feature of the ancient Indian civilization is its humanity.” What a wonderful tribute to the ancient Indian society given by no less than such an eminent and world renowned historian Basham!

I have further explained that the Islamic social order in India, which was in theory based on such high sounding principles as ‘social equality, brotherhood, dignity and self-respect of the individual’ would be degraded to such limits, could never be envisaged by Hazrat Muhammad, the Prophet. Their lust for power had divided the Muslim state into racial groups and prompted them to exercise discriminations between the high born and the low born, while their greed for material benefits and exploitative spirit were responsible for reducing the human beings to the position of cattle, rather worse than that. No wonder during the Sultanate period, a horse of good breed was better looked after and more highly priced than a dozen men and women slaves. The Hindus had practiced untouchability and were also guilty of having exploited their low-castes or the working classes; what the Muslims did in this regards was equally disgraceful.

However, despite a despotic political order, the benevolent aspect was not missing completely as far as the mass of the people, especially the ordinary peasants, were concerned. This was true as long as the peasants were submissive - a point emphasized repeatedly by both Fakhr-i-Mudabbir and Barani. As long as these sections continued to pay the taxes (Kharaj, Jizyah etc.) without remiss, they were not persecuted but preserved. Inspite of a number of negative features during the medieval period, the state formation showed considerable developments. Directly or indirectly, it aided and promoted economic growth, social change and cultural integration. In the field of ideology, a moderate Islamic state, which according to Barani, was sought to be developed into a
defacto secularist state under the Mughal emperor Akbar. In the course of time, it settled down as a liberal Islamic state.⁹

My study has shown that one can find the manifestation of the idea and spirit of human rights in different phases of the Indian history, be it in form of a benevolent government, Ashoka’s Dhamma, the humanitarian concern of different rulers, Emperor Akbar’s policies or the Bhakti and the Sufi movements etc. etc. In my opinion, it is this spirit which has always inspired the Indians and made them proud about their glorious civilization and later on became a potent factor in securing independence from the British rule.¹⁰

Chapter Four is entitled: An Overview of the Historical Evolution of Human Rights in the Colonial India. My research amply demonstrates that the modern concept of human rights jurisprudence had taken birth during India’s struggle for freedom from the British Rule. The colonial period is, therefore, generally considered to be a period of total denial of human rights to the subjects. It was during this period that the Indians underwent large scale discrimination, torture, internment, deportation and the total denial of civil liberties and basic freedoms etc. etc. The fight against the British imperialism and domination took the shape of demands in the form of civil rights / liberties and constitutional guarantees which reflected in effect the basic spirit of human rights.

⁹ The exponents of contemporary Hindu politics in India often try to deny the tolerant nature of the Mughal rule. The tolerance was however handsomely acknowledged by Hindu leaders of an earlier vintage. For example, Shri Aurbindo, who established the famous Ashram in Pondicherry, specifically identified this aspect of the Mughal rule in his book, The Spirit and Form of Indian Polity, Arya Publishing House Calcutta, 1947, pp. 87-89. Shri Aurbindo writes “The Mussulman domination ceased very rapidly to be a foreign rule. The Mogul empire was a great and magnificent construction and an immense amount of political genius and talent was employed in its creation and maintenance. It was as splendid, powerful and beneficient and, it may be added inspite of Aurangzeb’s fanatical zeal, infinitely more liberal and tolerant in religion than any medieval or contemporary European kingdom or Empire”. Quoted in Amartya Sen (1997), pp. 1-32, at p. 25.

¹⁰ If we look back we find that the championing of democracy and political freedom in the modern sense cannot be found in the pre-Enlightenment tradition in any part of the world - the west or the east so we have to look at the constituent components of this compound idea. The view that the basic idea underlying freedom and rights in tolerant societies are “Western” notions and somehow alien to Asia, is hard to make any sense of, even though that view has been championed by both Asian authoritarians and western chauvinists. Amartya Sen (1997), p. 27. Also see: Jack Donolley (1982): “Human Rights and Human Dignity: An Analytic Critique of the Non-Western Conceptions of Human Rights.” In: The American Political Science Review, Vol. 76, No. 2 (June), pp. 303-316.
My main focus of this chapter was to trace the roots of the human rights movement in the colonial period. As it is well said, the modern version of the human rights jurisprudence took a firm root during the British Rule in India. While the human rights struggles were mainly against the exploitative and the oppressive rule by the colonial power, the movement was meant to restore the lost Dharma of the glorious past through internal reforms of the Indian society. Alongwith that, the chapter has also focused on the role played by the social reformers in protecting and promoting the basic rights of the people, various landmarks which helped in nurturing the movement for human rights and the growth of civil liberties movement which often coalesced with the general national current for its anti-British content, though it never replaced the movement for national liberation. The Indian national movement was in fact a grand project to build a modern India along the democratic and the civil libertarian lines. In this chapter, I have explained that the human rights enjoyed by the people of India, in however limited a measure, is a legacy of our national movement.

My study attempts to prove that the recognition, protection and implementation of the human rights in the Constitution of India had its genesis in the forces that operated in the national struggle for independence during the British rule. I am of the view that after witnessing the colonial rule, every Indian was of the firm opinion that these rights were not only basic, but were also inalienable for them for leading a civilized life. Today, even after so many years of independence, we are still close enough to the freedom struggle to feel its warmth and yet far enough to be able to analyse it coolly. While analyzing it, we must agree that our past, present and the future are inextricably linked to it. Men and women in every age and society make their own history, but they do not make it in a historical vacuum, *de novo*. Their efforts, however innovative, at finding solutions to their problems in the present and charting out their future, are guided and circumscribed, moulded and conditioned, by their respective histories, their inherited economic, political and ideological structures.

I have argued that the path that India has followed since 1947 has deep roots in the struggle for independence. The political and the ideological features, which have had a decisive impact on the most post-independence developments, are largely a legacy of the historic freedom struggle. It is a legacy that belongs to all the Indian people, regardless of which party or group they belong to now, for the party which led its struggle from 1885 -1947 was not then a party but was indeed a movement, something we must realise intensely.
As a mass movement, it was able to tap the diverse energies, clients and capacities of large varieties of people. It had a place for all, old and young, rich and poor, women and men, the intellectuals and the masses and got developed into one of the greatest mass movements in the world history. It was fully committed to a polity based on representative democracy and the full range of civil liberties for the individual. It provided the experience through which it could become an integral part of Indian political thinking.

Our Constitution was adopted on 26 January 1950. The Preamble, the Fundamental Rights, the Directive Principles of State Policy together provide the basic human rights to the people of India. Our courts of law, too, have played a positive and a highly activist role in enforcing human rights. The Supreme Court of India, through liberal and innovative judicial interpretation has considerably widened the horizon of human rights in India.

**Chapter Five** is entitled: **Development of the Human Rights Movement in the Post-Colonial India.** India’s independence represented for its people the start of an epoch that was imbued with a new vision. India secured its independence from the British rule on 15 August 1947 and got the opportunity to frame its own Constitution. The Indian national leaders set out to build a secular society and a secular state, undaunted by the partition of India and the ensuing riots. The result was our effort and resolve to make India a great republic.

The main focus of this chapter was to trace the development of human rights movement in the post-colonial India and to see how it got consolidated later on after the infamous and black emergency proclaimed in the year 1975. Moreover, the role played by various Non-Governmental Organizations in ensuring human rights to the people and the analysis of working of the National Human Rights Institutions had also been taken up in detail in this chapter. In this chapter, I have also tried to focus on the various other social movements in India like the feminist movement, the movement for environmental protection and sustainable development, the *dalit* movement etc. that have contributed to a great extent to the increasing reliance on human rights concepts in India. At the end, the process of liberalization and globalization has been discussed in detail to see their impact on the human rights movement and to check whether it has promoted or demoted the concept of human rights as such.

There is no denying the fact that adoption of the written Constitution was definitely a watershed in the history of the development of concern for human rights in India. The process of the evolution of the Constitution began many decades before 26 January 1950 and has continued unabated since then. Its origin lies deeply embedded in the struggle for
independence from Britain and in the movements for responsible and constitutional
government in the princely states. More than passing resolutions on the need for, or framing
proposals for the constitutional reform, the heart of the national movement’s contribution lay
in its concrete political practice. This popularized amongst the people, the need for
parliamentary democracy, republicanism, civil liberties, social and economic justice, which
were amongst the essential principles of the Constitution.

I am of the view that moral vision, political skill, legal acumen: these were all brought
together in the framing of the Indian Constitution. This was a coming together of what
Granville Austin has rightly called the ‘national’ and ‘social’ revolutions respectively. The
national revolution focused on democracy and liberty which the experience of the colonial
rule had denied to all Indians whereas the social revolution focused on emancipation and
equality which tradition and scripture had withheld from women and low castes.

Moreover, the Universal Declaration of Human Rights was also adopted by the United
Nations General Assembly on 10 December 1948, just a year before the adoption of the
Constitution of India. Perhaps no other document has so much inspired the oppressed people
all over the world other than the UDHR. Similarly the framers of the Indian Constitution
were also inspired by it. The provisions of the Part III (Fundamental Rights) and of the Part
IV (Directive Principles of State Policy) bear a close resemblance to the UDHR. The
Preamble, the Fundamental Rights and the Directive Principles of State Policy altogether
provided the basic human rights to the people of India.

I have forcefully argued that the Indian Constitution aimed at creating conditions for the
building of an egalitarian society in which individual freedoms were secure. It did not
visualize abandonment of one ideal for the preservation of the other principle. At the same
time, the relationship between individual liberty and social change was rightly envisaged as
dynamic.

Although the people of India were putting forward the demand for a bill of rights before the
colonial masters since the last days of the nineteenth century, they could not, however, realize
it until the making of their own Constitution. Aware of the human rights developments in the
West and of India’s special needs and conditions from the very beginning, their conception of
human rights was two pronged: non-interference by the state in some matters concerning the
individual as well as positive action by the state in some matters for ensuring the realization
of these rights for everyone, especially for those who were either neglected or were deliberately denied their participation in the society and its resources.

Therefore, the Constitution of India guaranteed both kinds of rights that were later presented in the two covenants in the international arena, that is the civil and political rights as well as the social, economic and the cultural rights. The relationship between these two sets of rights was one of the issues that preoccupied the Constitutional Assembly. In the discussion on the right to due process of law in particular, the members of the Constituent Assembly expressed concern over limiting the state's power to enact social reforms. Nevertheless, the experience of repression by the colonial state was fresh and the liberal forces succeeded in making only the Fundamental Rights justifiable; the Directive Principles remained guidelines for legislation that could not be enforced.

The foundation norm governing the concept of human rights is that of the respect for human personality and its absolute worth regardless of color, race, sex and other considerations. Thus the Constitution laid the basis for reduction of social disparity by putting an end to any discrimination on the ground of religion, caste or sex. Redeeming the national movement’s major pledge to the depressed sections of the society, it provided reservations for the Scheduled Castes and the Scheduled Tribes in educational institutions, employment and in the legislatures. Soon after 1947, a number of social reforms and welfare laws were passed. Landlordism was abolished and there was some redistribution of land. Various states passed legislations abolishing the Zamindari System which, under the British, had bestowed effective rights of ownership to the absentee landlords. After the end of the Zamindari System, the state vested rights of ownership in their tenants who came from the intermediate castes. A law was passed making untouchability an offence.

The inadequacies at various levels in the implementation of the provisions related to human rights in spite of much promising Constitution of India, gave impetus to the human rights movement in India which has its roots in 1930 when the first human rights group in the country - the Civil Liberties Union was formed, about which I have discussed in detail in the previous chapter. However, the human rights movement in the post-independence period is generally divided into two phases: The Pre-Emergency Phase and the Post-Emergency Phase.

In this chapter, besides other things, I have endeavoured to demonstrate that the proclamation of independence in 1947 was followed by the legitimate upswing in the people's aspirations and expectations towards the betterment of their condition. The new Constitution of India
enumerated the most detailed and exhaustive list of rights and duties for the State. However, the major challenge emerged in implementing and enriching such provisions. To give real meaning and content to political freedoms and to build a new social order which could ensure freedom from poverty and hunger, from exploitation and discrimination, the State was expected to do much more than mere proclamation of such rights. However, they were not easy to achieve.

I have mentioned that although the Indian State under Jawahar Lal Nehru took many proactive steps and followed welfare state model, the police and bureaucracy remained largely colonial in their approach and sought to exert control and power over citizens. The casteist, feudal and communal characteristics of the Indian polity, coupled with a colonial bureaucracy, weighed against and dampened the spirit of freedom, rights and affirmative action enshrined in the Constitution. Unfortunately, no struggle against the hierarchical caste system followed, so that on one hand caste discrimination and oppression continued, on the other, casteism or use of caste solidarity for the electoral and other purposes began to grow.

My study proves that the single most important power that affects the human rights of the people is their state and its institutions, especially its legal and law enforcement agencies. It is also true that for many others the structures and processes of global economy and global politics are equally important. Some scholars have argued that the state and the NGOs provide the best hope for the human rights in the coming years. We have seen that human rights NGOs have increased greatly in number in recent years. However, there have been instances where NGOs have been accused of being partisan, although this is far outweighed by their overwhelming contribution to generating awareness about and alleviating human rights violations across the globe.

Having personally visited the National Human Rights Commission at New Delhi a few times for my research work, I am of the confirmed view that the Parliament of India had certainly taken a bold step by enacting the Protection of Human Rights Act, 1993 for better protection of human rights. I have shown no hesitation to state and reiterate that the National Human Rights Commission has done a commendable work despite certain shortcomings and has enabled to a great extent the Indian masses to lead a life with full dignity, equality and freedom as enshrined in our Constitution.

I have stated that India has no dearth of laws in the field of human rights. However, these laws have not reached the common man. India’s adoption of liberalization in 1991 marked a
shift in its economic policy from one that had State-centric tone to the one that is market-oriented. While curtailing of state control in the economic sphere has in no way led to the reduction in state inflicted human rights violations, the impact of the same in the human rights movement has been manifold and at multiple levels.

I am of the view that it is highly ironic that the human rights groups often have to work in collaboration with and depend for the finances on organizations and agencies which themselves are often violators of human rights. Gradual withdrawal of the state from the economic sphere has not only led to the abandoning of its commitments towards promotion of social welfare but has also reduced its ability to push corporate institutions towards acting in a socially responsible manner. With increasing onus being placed on civil society whether in the form of administrative and political decentralization or development initiatives in the form of self-help groups and stake holder organizations, it becomes imperative that the human rights movement make use of these initiatives to empower the people and mobilize them to achieve broader human rights causes.

Chapter Six is entitled: An Evaluative Analysis of the Human Rights Movement and its Future. Through the discussion in the earlier five chapters, I have endeavoured to show that human rights movement represents the historical journey travelled by the humankind ever since the beginning of an institutionalized political and social order. 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.

I have forcefully argued that 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 of human rights movement what Indian nation state has cultivated under the umbrella of civil rights movement since long.

The main focus of this chapter was, therefore, to provide a critical overview of the human rights movement in India and to predict its future. At the same time, it was quite clear that one could never understand or evaluate human rights divorced from the historical and the 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. Jawahar Lal Nehru’s tryst with destiny in the Constituent Assembly was a history in the making and not merely a rabble-rousing rhetoric.

I am of the view that although the human rights movement in India has been successful in mitigating some serious forms of oppression and has also 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 who matter in the system. The difficulty is also of the right attitude towards the problem.

My study and research in the arena of human rights for almost five years has enabled me to argue that 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, according to me, 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 now human rights are more newsworthy than before. 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.

I am in agreement with some of the leading scholars in the field that 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.

I have made it a point to explain that generally the views on the human rights of the most oppressed are not articulated, or when articulated, they are not heard. They are perhaps the worst victims of the denial of human rights and in desperation they turn to violence or to 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.

Finally, as Upendra Baxi reiterates: “The very agenda of human rights today is the rehabilitation of the culture of globalism, reclamion 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.

7.3 Suggestions for Strengthening of the Human Rights Movement

After going through all the chapters one realises that overcoming the obstacles faced by the human rights movement in India is an uphill task but not impossible. It calls for the collective action on the part of the various segments within the human race. For the proper implementation of the human rights the researcher has endeavoured to make following suggestions:

(I) The first and foremost obligation for the protection and promotion of human rights rests upon the state and it is the duty of the state to prevent violations of human rights where ever they occur and act courageously on their commitments. At the same time, the establishment of Asian Regional Mechanism is also desirable to reduce human rights violations which might complement the national mechanism, especially in addressing cross border issues.

(II) Human rights practices should also be enhanced by training the key actors administering the implementation of human rights which includes police, lawyers, judges, prison staff, welfare personnel, civil servants, armed forces, teachers etc and by ensuring that the respect of human rights also covers the weakest and the most vulnerable groups through programmes for refugees, the disabled, indigenous people, minorities, street children and so on. All the administrative officers should be made familiar with the human rights documents. These instruments should be translated into the regional languages. Above all the government should encourage the NGOs in the dissemination of knowledge on human rights because they are going to remain an indispensable part of the human rights movement both at the domestic and the international level.

(III) It is quite clear that human rights issues affect business, education, medicine, criminology and much more. For strengthening human rights movement, the topic of human rights inherently calls for an inter-disciplinary enquiry. In the present scenario, human rights problems implicate large and diverse area of knowledge. For example, eliminating discrimination against women in the workplace requires a precise social, political, and economic diagnosis of the causes that give rise to such
discrimination. Similarly, protecting the right to health of communities displaced by violence requires the expertise of doctors, economists and other professionals to identify vulnerable populations, common diseases and costs of health coverage, thereby calling for multidisciplinary approach. At the same time, it is highly ironical that the subject of human rights is generally relegated to the law schools but rarely beyond that. It is the need of the hour that the universities and institutions of higher education should promote inter-disciplinary research by drawing from all their faculties in a coordinated way to address the massive and multi-faceted challenges faced by the human rights regime.\textsuperscript{11}

(IV) Similarly, the obligation also rests upon the civil society to weed out the bias and prejudices involved in religious, social and cultural practices and to rise to the occasion in times of crisis to express solidarity with the suffering fellow being. Every one shall have a social commitment to give back something to the society according to one’s capacity.

(V) Multinational Companies should see that their activities do not involve human rights violations and if happened, to accept accountability and to compensate in a fair manner; to honor the sovereignty of the host country and conduct themselves in such a way that a fair portion of their returns are spent to the well being of the people to whom they owe a lot.

(VI) Judiciary is the ultimate savior of mankind from executive excess, legislative indifference and societal harshness. Our founding fathers were man of great vision and integrity. In fighting for liberation from colonial rule and drafting our national character imbued with a socialistic spirit they have left a valuable heritage and expressed their faith in our ability to solve through democratic processes the most complex problems. They had envisaged the judiciary as the bastion of rights, and of justice, and therefore decided to rely on the Supreme Court to define and enforce the guarantees of Part III. It is therefore the judiciary’s responsibility to ensure that their faith was not unfounded.\textsuperscript{12} A sensitized judiciary can do wonders in protection and promotion of human rights and prevention of violations. Judicial conferences and


\textsuperscript{12} Vijayashri Sripathi (1997-98), p. 129.
sentencing workshops and institutional training for trial judges are directly necessary for the success of human rights movement in India.

(VII) The obligation also rests upon the NGOs to be well acquainted with economic rationalism in their dialogue with communities and with human rights values in their negotiations with the government. A rational NGO is capable of resolving conflicts between the State and the people. Moreover these human rights organizations are required to play a vital role in monitoring the state institutions according to global standards of protecting and promoting human rights.\(^{13}\)

(VIII) The ultimate responsibility falls upon the individual human beings themselves to come out of their incapacities, to empower themselves to face any crisis and to realize the basic truth that ‘bearers of human rights are also bearers of human responsibilities’. The responsibility of ensuring human rights for future generation lies with the present generation.

(IX) There is an urgent need to devise new ways to make Human Rights Commission effective by putting pressure on the government so that necessary changes can be introduced in the *Protection of Human Rights Act, 1993* amending the laws and putting people whose mindset is more oriented towards human rights instead of people who are sitting there for their own purposes.

(X) Moreover the creation of a ‘human rights culture was given a significant boost by the launching of UN Decade for Human Rights Education in 1994. The potential value of human rights education to democratic empowerment cannot be overstressed. In fact it is a key to the creation of political culture based on human rights. The UN is necessarily the principal framework for the development and expansion of this idea.\(^{14}\) As already mentioned in Chapter 6 about the promotion of human rights education for proper implementation of human rights, it must be kept in mind that each and every education programme should be carefully designed in accordance with its specific target and objectives. Human Rights Education must be


responsive to local conditions, traditions and challenges. Further, programmes should be developed to approach specific groups in their own language keeping in view social and cultural customs of the target group and their problems in their community or professional life.\textsuperscript{15}

In the end, it is to be submitted that Human Rights are a universal phenomenon and we cannot live as human beings without Human Rights. They include all fundamental freedoms and are based on mankind’s demand for a life in which the inherent dignity and worth of each human being will receive respect and protection. It is possible only if we respect and take care of the needs and rights of one another. It is the responsibility of every Government to ensure and protect the Human Rights of its citizens, irrespective of their religion, caste, creed, colour, sex, race and place of birth. In the recent years, there has been a growing concern in the country for the protection of human rights. However much remains to be done in the matter. India has to redeem the pledge made to the people in the form of the Preamble of the Constitution. The object can be fulfilled neither by United Nations Declarations and Conventions nor by the Parliament’s Act nor by the Courts’ pronouncements in this regard. It is to be done by the community and the individual, as was rightly said by late U. Thant as Secretary-General of the United Nations:\textsuperscript{16}

\begin{quote}
\textquoteleft The task is not for United Nations alone. The promotion and protection of human rights must be viewed as a national and indeed a community and an individual responsibility as well as an international one\textquoteright.  
\end{quote}

The great objective of ‘Justice’ and ‘Equality’ enshrined in the Indian Constitution can be realized only by promoting the feelings of ‘fraternity’ amongst the people which is the theme of all ancient Indian scriptures and that is the supreme message which India has given to the world. This alone may assure the dignity of individual or in other words, human rights. The United Nations has fixed a time framework for achieving a certain degree of human rights worldwide in the name of Millennium Development Goals. By 2020, it hopes to ensure full


implementation of all conventions by all nations, protection of common environment, cities without slums, full literacy level, safe drinking water for all, freeing human race from hunger and to make right to development as a human right- a reality for everyone. In this scenario, the future of human rights depends upon ethical state, just governance, sensitized judiciary, vigilant public, responsible corporate and dedicated NGOs. It depends not on enlarging normative structures day by day but on dismantling the unethical and unjustified exploitative socio-economic and politico-cultural formulations that grip the majority of the human race to perpetrate gross human rights violations, either directly or indirectly. Last but not least, it is equally important to recognise the diversity that exists in different cultures in the contemporary world. We are constantly bombarded by over simple generalizations about “Western Civilization”, “Asian values”, “African Cultures”, and so on. These unfounded readings of history and civilization are not only intellectually shallow, they also add to the divisiveness of the world in which we live.\(^{17}\) It is only by overcoming such generalizations that we can help in strengthening the human rights movement at the national and international level. The words of E. P. Thompson, an eminent British historian will perhaps inspire us in our collective endeavour and give us some idea of momentous destiny that India is called upon to fulfil. He writes:

India is not an important but perhaps the most important country for the future of the world. All the convergent influences of the world run through this society: Hindu, Muslim, Christian, Secular, Liberal, Maoist, Democratic-Socialist and Gandhian. There is not a thought that is being thought in the East or West which is not active in some Indian mind. If that sub continent is rolled up into authoritarianism, if that varied intelligence and creativity should be submerged into conformist darkness, it would be one of the greatest defeat of the human records, sealing the fate of penumbra of other Asiatic nations.\(^{18}\)
