UNIT 12  HUMAN RIGHTS
MOVEMENT

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12.0 OBJECTIVES

This unit is on the nature and role of Human Rights Movement in India. After going through this unit you will be able to:

- understand the context and nature of emergence of Human Rights Movement in Pre-Independent India;
- trace the development of H.R. movement in different phases after independence; and
- analyse the major contemporary concerns of H.R. movement and the challenges it faces.

12.1 INTRODUCTION

You have already read that Human Rights as generally understood are rights available to individuals on account of being human beings. Human rights are also often referred to as ‘moral rights’ as opposed to ‘legal rights’ i.e. these are rights that should be made equally available to all irrespective of race, caste, community, region or country that an individual may belong to. They are therefore said to be universal apart from also being regarded as inalienable and absolute. However all these features of human rights have been challenged by various thinkers and therefore, the category of ‘human rights’ remains a much debated one. Further, while many human rights have gained legal recognition many more remain within the domain of ‘moral rights’. Both at international and domestic levels throughout the world there have emerged and developed movements for promotion and protection of human rights.
A movement can broadly be defined as a large scale mobilization of groups and individuals which aim to represent, struggle for and thereby achieve certain commonly held objectives. One of the main purpose, therefore, of human rights activists and of human rights movements is to ensure legal recognition of as many human rights as possible so that they become legally enforceable. This struggle has been and continues to be conducted at both the national and international level. However the human rights movement has not followed a linear trajectory. Challenges to a uniform movement have emerged from both varying and often conflictual understandings of what constitutes human rights as also which strategies to follow to secure the same for individuals and groups.

The objective of this unit would be to trace the evolving character of the human rights movement in India. The analysis would be done in terms of four historical periods which mark discernable changes in the theory and practice of the human rights movement. These phases would be the pre-independent or generally the early twentieth century phase, the post-independent or the phase of the 1960s, the emergency phase and the 1980s and finally the human rights movement in the period of liberalization.

**12.2 THE HUMAN RIGHTS MOVEMENT IN PRE-INDEPENDENT INDIA**

India’s struggle for independence epitomized a demand for self-rule and democratic liberties. Nationalism provided the broad context within which civil and democratic rights were demanded. Nilanjan Dutta (‘From Subject to Citizen: Towards a History of The Indian Civil Rights Movement’) argues that demands for civil rights in India date back to the nineteenth century when educated sections of the subject population demanded ‘equality of opportunity in employment, freedom of press and the abolition of racial discrimination in legal proceedings’. The early twentieth century saw greater impetus in demanding civil rights. At the special session of the Congress held in Bombay in 1918 a declaration of rights was adopted and presented to the British government with a view that these rights would be made a part of the new Indian Constitution as promised under the Montagu-Chelmsford reforms.

Another contribution to the growing consciousness about civil rights came in the form of S.Satyamurthy’s book titled ‘Rights of Citizens’. Satyamurthy’s focus was not only to expose the lawlessness of the colonial State but also to spread the idea of civil rights as an instrument of empowerment through which the State could be questioned and held accountable. Further adding to these demands for rights was the declaration adopted at the Kanpur convention in 1925. This declaration diversified the nature of rights demanded. These now included not just political and civil rights such as the freedom of speech, expression and assembly but also social and cultural rights such as free primary education, freedom of conscience and religion, gender equality and others. The 1928-29 Nehru report on the Indian Constitution witnessed a strong debate on the right to property, the incorporation of which was strongly opposed by the left leaning political leaders. However as a compromise solution the right to property was included along with a concession to the working class in the form of granting ‘trade-union’ rights.

These theoretical exercises in deciding the scope of what constituted fundamental rights and democratic liberties finally culminated in the establishment of the Indian Civil Liberties Union (ICLU) in Bombay in 1936. The Union was presided over by Rabindranath Tagore while Sarojini Naidu was the first working president.
Subsequently branches of the Union also came to be established in Bombay, Calcutta, Madras and Punjab. As Dutta argues, it is important to note that the initial orientation of the ICLU was ‘oppositional’ in nature. As outlined by Jawaharlal Nehru the ICLU was asserting the ‘right to oppose’ the colonial government. The activities of the ICLU included exposing and investigating various instances of police atrocities and custodial violence, suspension of citizens’ rights and incarceration of political prisoners. Investigations were followed up by publication of reports. Further, notwithstanding the fact that the ICLU had adopted a strong anti-colonial ideology, they did not restrict their activities to provinces under direct colonial rule but also included within their ambit the princely States and those provinces which had Congress governments. It is instructive that even in the latter case there were many instances of human rights violations. However subsequently with the national movement gaining greater momentum as witnessed in the 1940s, the activities of the ICLU became secondary. Moreover as leadership of both was drawn from the common pool of the Congress party there were no alternative activists who could have kept the human rights movement alive. Another observation that needs to be made is that as the nationalist and human rights discourse came to be entwined with both rallying against the colonial State, once India became independent the need for a human rights movement was no longer felt. In fact the national government came to appropriate the role of the defender of human rights in such a way that any opposition to the government was now branded as ‘anti-national’. The activists who had earlier condemned the violence of the colonial State now came to use the same against its citizens, justifying their actions for the protection of ‘national interest’. The human rights movement also stood discredited and it continues to grapple with this dilemma of being branded anti-national on the one hand or becoming defunct on the other. However most importantly one must acknowledge that rights consciousness in India developed as a part of nationalist consciousness.

12.3 THE HUMAN RIGHTS MOVEMENT IN THE 1960s

As stated earlier the human rights movement lost steam immediately following India’s independence. What one witnessed now were regionally fragmented attempts at formation of human rights groups. The first such group was the Civil Liberties Committee (CLC) established in Bengal. The formation of the CLC was largely the effort of the Communists who revived the struggle for human rights in 1948 by leading mass-movements. However the Communists too faced twin dilemmas i.e. whether to endorse or eschew the use of violence and secondly what Dutta refers to as the problem of ‘sectarianism’. They came to justify the use of violence by arguing that violence of those who revolted was not as destructive as that unleashed by the State. Secondly the perspective of the Communists remained limited to immediate goals such as getting their comrades freed and lacked impetus such that broader concerns could be addressed. This accounted for the CLC being abandoned once the communists were released from jail in the 1950s.

However the Communists contributed most by continuing with the struggle for human rights. The 1960s saw the rise of the naxalite movement in many parts of the country. The two States where the movement was at its strongest and therefore State repression the most brutal were Andhra Pradesh and West Bengal. Consequently the Andhra Pradesh Civil Liberties Committee (APCLC) was established in 1974, the Association for the Protection of Democratic Rights (APDR) was set up in Calcutta in 1972 as
also the Association for Democratic Rights (AFDR) was set up in Punjab. These human rights organizations aimed at not only exposing atrocities of the State apparatus and collecting material on human rights violations but acted on the same in the manner of organizing demonstrations and holding rallies. However, the State responded by strongly repressing all such organizations and activists. All manners of brutalities were unleashed in terms of encounter killings, physically disabling the activists and imprisoning thousands of political activists. The movement had now definitely acquired a ‘militant’ temperament and while it was silenced for a while on account of State repression it had definitely gained in ranks. Moreover the idea sold by the nationalists that all rights would be guaranteed once freedom was attained was finally exposed for all its hollowness. The naxalites shifted the terms of the human rights discourse to highlight the plight of the socially and economically marginalized sections of society in particular that of the marginalized farmers and the landless labour, who more often than not also inhabited the lowest ranks in the caste hierarchy. The human rights organizations in their turn broke the State imposed silence on the inhuman treatment meted out to the former while carrying forth the task of fighting for the rights of the latter.

Check Your Progress 1

1) What do you understand by Human Rights and Human Rights Movement?

2) Described the nature of human rights movement during India’s struggle for freedom.

3) What role the Communists played in keeping alive the idea of human rights after independence?

12.4 THE EMERGENCY PHASE AND THE 1980s

The State of Emergency imposed in June 1975 and the subsequent excesses committed by the State led to the human rights movement becoming truly national in character. The excesses including restrictions on freedom of speech and expression, censorship on press, arrests of political opponents and dissentors and concern in general.
government banned the APDR in August 1975 while many activists of the APCLC were arrested. By imposing print and media censorship instances of human rights violations were sought to be suppressed. Any criticism of the government or its policies was branded as ‘anti-national’.

Dutta has argued that the refusal of the government to tolerate opposition of any kind or from any quarter led to its ‘alienating’ large sections of the population. Activists in the field of law and academics formed an organization called the Citizens for Democracy (CFD). However the organization was plagued by two shortcomings i.e. first, it exclusively focused on legal redressal of its demands. Given the total control that the executive had come to exert over the Judiciary the latter was not in a position to provide any legal relief. Further the CFD did not allow for politically oriented individuals to represent the organization. As a result the organization could not acquire a broader base or forge further organizational linkages. The more momentous event was the setting up of the People’s Union for Civil Liberties (PUCL) by Jayaprakash Narayan in August 1976. The PUCL was launched as an all India organization and had a diverse membership including both militant and pacifist activists. It established linkages with other organizations too and once the Emergency was lifted, it engaged itself in freeing all political prisoners. However the consequent formation of the Janata party government in 1977 and proximity of many PUCL activists to the same, as also their participation in the government led to a loss of credibility of the organization. Many members were accused of being partisan and abandoning the cause of human rights. Moreover it was argued that the organization had come to confine itself to championing of ‘civil’ or ‘legal’ rights while the demand for democratic and social and economic rights were relegated to the background. Thus the agenda of the organization had become narrow and shortsighted. As a result of these differences the organization split.

Initially the Delhi unit was christened the People’s Union for Civil Liberties and Democratic Rights (PUCL-DR), though later it took on the name of PUDR while the rest of the regional branches were now the official PUCL. Apart from these two organizations other regional groups included the Committee for Protection of Democratic Rights (CPDR) founded in Bombay in 1977, the Naga People’s Movement for Human Rights (NPMHR) along with the APCLC and the APDR which were revitalized after the Emergency. In general the activities of the various advocacy and support groups, as well as human rights movements and groups that emerged in the mid-1970s have been classified below. The five activities included gathering facts and conducting investigations, public interest litigation, enhancing rights consciousness through various publications, holding campaigns and gathering resource material for other similar minded groups. Smitu Kothari has argued that another major contribution of these organizations included the initiation of ‘investigative journalism’. These groups have also played an important role in providing various kinds of support during specific crisis situations such as communal riots as witnessed against the Sikhs in 1984 as also the instance of the Bhopal Gas victims. They have not only provided relief and rehabilitation but also helped independent organizations with their experience and ability to produce and disseminate literature. Smitu Kothari classifies the issues raised by these groups into three categories: State terror in the form of police excesses which include torture and ‘fake encounter’ deaths; non-implementation of legally guaranteed rights along with total apathy and inactivity of the government institutions and finally socially structured violence whether perpetrated on a caste, class or gender basis. In Post-Emergency era one finds a broadening of the agenda of the human rights movement. The question of rights of communities is
now considered as important as the struggle for individual rights. Rights concerning religion, ethnicity and gender came to dominate the movement.

12.4.1 Differences within H.R. Movement

Certain differences in the objectives and organizational patterns are visible amongst these human rights groups. Nilanjan Dutta has argued that as the PUCL has a nationwide platform the members are usually eminent persons rather than activists while the PUDR has younger members who conduct a lot of field level investigations and are also engaged in litigation. Further the APDR and APCLC are oriented towards grass roots mobilization. Ideologically too, the issue of class is given predominance amongst the APCLC and AFDR activists. However two dilemmas that commonly came to plague the human rights movement were firstly whether to criticize or support acts of violence. The position taken by the APDR was a mid-way solution in that it was critical of acts of violence as committed by terrorist or naxalite groups but held that in dealing with the same the State should be constrained rather than retaliating with even greater violence and violating legally recognized rights. This dilemma was accentuated as Kashmir and the North-East were plagued with militant as well as retaliatory State inflicted terrorism in the late 1980s and 1990s. What was even more ironic was that State terrorism was legalized in the form of draconian legislation such as the National Security Act (1980), Terrorist and Disruptive Activities Act (1985) and Essential Services Maintenance Act (1981). The Second dilemma related to the instance of international human rights groups and organizations increasingly forging links with domestic groups. The human rights movement therefore came to be caught between seeking help from international agencies in forwarding its cause and on the other hand of being accused of ideological compromises and monetary dependence on the latter.

Check Your Progress 2

1) What led to the emergence of Human Rights Movement after Proclamation of Emergency?

2) What role Human Rights Organizations have been playing since mid 1970s?

3) Describe the nature of objective and strategies amongst Human Rights.
12.5 LIBERALIZATION AND THE HUMAN RIGHTS MOVEMENT

India's adoption of liberalization in 1991 marked a shift in its economic policy from one that was State-centric to one that was more market-oriented. While curtailing of State control in the economic sphere has in no way led to a reduction in State inflicted human rights violations, the impact of the same on the human rights movement has been manifold and at multiple levels. Liberalization of the communication sector with increasing participation of private players particularly in the arena of visual media has helped to not only expose government excesses but also provide impartial and wide reportage of human rights violations. Increasing use of human rights protection as a foreign and economic policy instrument by developed nations such as the U.S.A. as also pressure applied by international N.G.O.s such as Amnesty International led to the Government setting up the National Human Rights Commission in 1993. A liberalizing economy can ill-afford to be economically and morally isolated at the international level. While the dilemma of accepting foreign funding persists, liberalization has definitely made the same morally palatable such that there would be fewer instances of human rights agencies and actors being dubbed, ‘foreign agents’. The government though has not relented in its screening of the same.

However a cynical or what some might call a rational analysis would suggest that liberalization has led to what Upendra Baxi calls emergence of 'human rights markets'. According to Baxi, human rights markets are said to “comprise a series of transactions across a range of economic actors that pursue competition within a framework of collaboration”. Human rights markets are governed by principles similar to a market economy. Instances of human rights violations and suffering must be commodified or packaged in a manner that the mass media can easily market to its consumers. However such commodification is usually only of shock value as it is transient and therefore does little to mobilize long term support for a given cause. Therefore advocates of human rights whether NGOs or NGIs (non-governmental individuals) must adopt corporate management techniques. As Baxi argues, these are needed to constantly lobby for consumer support and build solidarities as well as garner funds from governmental or non-governmental, national or international ‘investors’ or funding agencies such that human rights may be protected and promoted. What is ironic is that human rights groups often have to work in collaboration with and depend for finances on organizations and agencies which themselves are often violators of human rights. Market rationality is profit oriented therefore often choices must be made between what he calls “efficient causes of human and human rights violations and progressive social movements........” Gradual withdrawal of the State from the economic sphere has not only led to 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 makes use of these initiatives to empower the people and mobilize them to achieve broader human rights causes.

12.5.1 Situations of Internal Conflicts

As stated earlier instances of human rights violations have not reduced in the 1990s inspite of an increase in number of and multiple causes that human rights groups are now advocating. According to the N.G.O., the Human Rights Watch since insurgency
began in Jammu and Kashmir in 1989 there have been 10,000 unofficial and 4,000 officially declared disappearances including innumerable instances of encounter and custodial deaths, rapes and torture. Another major instance of human rights violation is that of the increasing number of conflict –induced internally displaced persons. In the case of Jammu and Kashmir such refugees are essentially the Kashmiri Pandits who fled the valley fearing sectarian violence once terrorism began. It has been estimated that 55,476 Kashmiri Pandit families remained displaced in Jammu and Delhi since the 1990s. The above pattern of violence is also witnessed in the North-Eastern States of the country. About 200,000 Bodos, Muslims and Adivasis remained displaced in the Bodoland areas of Assam since 1994 while there were 44,000 indigenous Karbis and Dimas in camps in the Karbi Anglong district of Assam. Also in these situations milit anti-s and terrorists violate the human rights of innocents including right to life and freedoms of speech and expression. There also take place civilian casualties on account of being caught in the cross-fire between armed opposition groups and the security forces. Under the cover of various acts such as the Armed Forces (Special Powers) Act (AFSPA), Disturbed Areas Act, the Terrorist and Disruptive Activities Act (TADA) and the most recent Unlawful Activities Prevention Act (UAPA) passed in 2004 which replaces the Prevention of Terrorism Act (POTA), the security forces have acted with impunity both de-facto and de-jure with scant deference to citizens’ rights or fear of legal prosecution. Another armed opposition movement which continues to remain active mainly in the States of Andhra Pradesh, West Bengal, Chattisgarh and Jharkhand is the Naxalite movement. The persistence of the movement suggests that economic and social deprivation and discrimination continue to plague rural India and that as the government’s agenda of providing social justice has failed, the naxalites enjoy large scale support in the countryside. However as suggested earlier the use of violence for securing human rights has posed a moral dilemma for many human rights groups. The instance of the ‘Salwa Judum’ movement in Dantewada district of Chattisgarh is instructive in so far as it has officially been claimed to be an anti-Naxalite uprising of villagers who want to end the violence brought on by the former. However many human rights groups have argued that the movement is largely a State sponsored initiative. It has provided the government with an opportunity to displace villagers and place them in refugee camps on the pretext of protecting them against naxalite driven violence. What is evident is that low intensity armed conflicts plague all parts of the country and are one of the main causes of human rights violation espoused by the human rights movement.

12.6 CONCERNS AND STRATEGIES OF THE CONTEMPORARY HUMAN RIGHTS MOVEMENT

The vocabulary of human rights has greatly expanded in the closing decades of the twentieth century. Many concerns are now being expressed in the language of rights, demanding legal and social recognition. According to Upendra Baxi, the right to livelihood, right to compensation and rehabilitation for injuries done or caused by State agents or agencies, right to speedy trial, right to education, right to health, right to gender equality, right to information, right to a clean environment and so on are some of the rights which have gained the status of judicially recognized fundamental rights on account of judicial interpretation and public interest litigation. Apart from the above, the right to development and the right against certain kinds of development, the right to be heard are other rights that need recognition. These rights are particularly important in the current context where development projects are essentially market
driven. Dispossession and displacement of entire villages on account of infrastructure projects such as setting up of nuclear power plants, dams, airports, and mining projects as well as the most recent instance of establishing special economic zones (SEZs) illustrate the same. Conflicts concerning development also include natural resource conflicts which relate to extending equitable and inalienable rights to commonly owned resources such as rivers, forests and so on as also instances of agrarian distress which have led to farmers' suicides particularly in the States of Maharashtra and in Andhra Pradesh both of which are otherwise counted amongst the fastest developing States in terms of economic growth rates.

Baxi has argued that the Indian Constitution is indeed unique in so far as the chapter on fundamental rights not only guarantees various civil rights but also makes it obligatory on the part of the State to take affirmative action to prevent discrimination based on caste, religion or ethnicity. However, despite all these guarantees instances of violations of these basic civil rights remain one of the main concerns of human rights groups. There have been increasing instances of communal riots in almost all parts of the country, the most gruesome being the Gujarat genocide of 2002. In some cases the refusal of the State administration to control the riots as also active encouragement of the carnage by the law and order agencies exposed the role of the State as a gross violator of human rights. In its 2002-2003 annual report the National Human Rights Commission dealt with 542 reported instances of caste related atrocities. Instances of failure to take action, police excesses, unlawful detention, flash implication, dowry death, custodial violence and illegal arrests were the other categories that topped the list of human rights violation in the report.

Given the broad spectrum of rights violations that human rights groups need to address is imperative that linkages across causes be established and human rights be looked at in a holistic manner. The insistence on maintaining separate identities and unwillingness to come together on a common or broader platform has hampered the ability of human rights groups to gain logistical, monetary or even numerical support such that their public visibility remains low. The inability to forge linkages is also a reason for the transitory character of groups which may dissolve once the cause has been won or lose steam in case the struggle for rights (which is often the case) is long drawn out. Groups are often regionally varied and are unable to gain a national identity which in turn is essential for getting rights recognized or highlighting violations of rights. In fact Baxi has argued that there is no nation-wide human rights movement in India. There are only diverse human rights movements which cling on to their specialized areas of human rights advocacy. Membership to these groups is often plagued by, 'voluntarism' i.e. they lack a dedicated cadre of volunteers who are willing to participate on a sustained basis.

12.7 CHALLENGES FACED BY THE HUMAN RIGHTS MOVEMENT

The Human Rights Movement in India faces challenges at various levels. The power of the State is witnessed at all levels of the political and economic structure. In the economic sphere where the State has withdrawn it remains a willing ally of the domestic and multinational corporate sector and thus the human rights groups must also face the challenge of global capital which is not shackled by the concerns of social responsibility.
Ideologically the interface with the State is itself fraught with many dilemmas. Human rights groups are expected to oppose various kinds of violations of human rights by the State whether in the form of rights depriving legislation or non-action in securing legally guaranteed rights. On the other hand they must also work within the State’s legal framework to demand justice. In following the latter, often groups tend to confine themselves to making demands on the State without ever challenging the very ideological structures or processes within which the State and political regime operate. Rajni Kothari has argued that with the rise of a technocratic State committed to global capitalism there has been large scale depoliticization and curbing of dissent. The distinction between State and civil society has blurred with the latter lacking any agency or alternative perspectives to the ones championed by the State.

Given the liberal-individualist market based ideology that guides the State there are increasing attempts to take society as a singular and homogenous category devoid of regional, religious, ethnic, linguistic and cultural differences and therefore amenable to universally determined solutions. Kothari says that as the State does not recognize particularistic claims, groups are often forced to resort to, ‘sectarian and communal forms’ to register their protest. Human rights groups need to constantly negotiate the twin categories of the universal and individual on the one hand and the particular and communitarian on the other. The dominant discourse of rights is geared towards the individual; therefore it is essential that the group perspective be incorporated. D.L. Sheth has argued that the liberal and legalistic concept of rights does not include the concerns of the marginalized i.e. those who do not belong to the organized sector and are devoid of any entitlements. The language of rights needs to be further expanded and reinvented sans the State determined context.

Check Your Progress 3

1) How has process of Liberalization effected the Human Rights Movement?

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2) What dilemma is faced by Human Rights activists in situations of internal conflicts?

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3) Describe the challenges being faced by Human Rights activists.

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12.8 LET US SUM UP

In conclusion one can say that it is essential for Human rights groups to expand the democratic spaces available for not just what Kothari calls, 'protesting' but 'actively resisting' human rights violations. There is need to build a human rights consciousness and mobilize civil society for the purpose of promoting human rights. Concerted action is essential around diverse concerns which must be animated by a common understanding. It is only then that one may speak of a human rights movement in India and recount its contribution to securing and protecting human rights. Otherwise all one can do is list out various human rights and social action groups which may be very active in their own spheres but share little in common or at times may even have conflictual positions vis-à-vis one another.

12.9 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Human Rights are rights available to individuals on account of being human being. These are natural or moral rights. Human Rights movement can be described as mobilization of individuals and groups for protection and promotion of Human Rights.

2) The nature and strategy of Human Rights movement during freedom struggle were two fold. (a) Demand for equality, freedom of press, and abolition of discrimination (b) To expose the nature of colonial rule and empowerment of people to question the state.

3) The communists were opposed to concerned with state's oppression of people's movements. For details see section 12.3.

Check Your Progress 2

1) Excesses committed by state, which included denial of rights, freedom and dissent and general coercion.

2) The functions and roles include gathering facts and conducting investigating, filing cases (PIL), enhancing H.R. consciousness, holding campaigns and gathering resource material.

3) Differences are with regard to approach towards violent protest, strategies to achieve the goals and nature of leadership.

Check Your Progress 3

1) Liberalization of communication sector and emergence of private players in media have helped H.R. movement to disseminate information and expose the violation widely.

2) In situations of conflict Human Rights movement's faced with the problem of violation of Human Rights by militants and terrorists on the one hand and oppression and abuse of powers by the state in name of controlling militancy etc.

3) See section 12.7.
12.10 REFERENCE BOOKS AND WEBSITES


M. Mohanty, P.N. Mukherjee and O. Tomquist (eds.), *People’s Rights: Social Movements and the State in the Third World*, Sage, New Delhi, 1998


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