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HUMAN RIGHTS MOVEMENT IN INDIA

Human rights movement in India got its germination during the Emergency Rule during 1975–1977 and developed during the post Emergency period. Two major trends were marked by Civil liberties concerns and the rights based perspectives. In the last 35 years, the human rights movement has been enriched by collective wisdom emerging from the tribal movement, peasant struggles, environmental movement, women's liberation movement, child rights movement, dalit movement and struggles of the differently abled persons. The state and the mainstream institutions have had love hate relationships with different types of human rights movements at different phases of history.

Genesis of Human Rights in India

Rude shock received from the imposition of the national emergency in India in 1976 made the articulate and vocal sections of society sensitised to human rights. Absence of democratic rights during those eighteen months galvanised students, intellectuals, political activists, trade unionists, artists into action. The educated middle class of India had thrived on an uninterrupted flow of democracy in its national life since it gained independence in 1947. The emergency rule was marked by detention without trial for a large number of people—students, youth, political personalities—news censorship, trespassing without legal sanction of private premises, taping of telephones, interception of letters and constitutional amendment curtailing basic rights to life and freedom in the name of national security and violation of civil liberties. Television being monopoly of the government was totally controlled by the ruling party.

Hundreds of thousands of people joined massive rallies to protest against the anti-democratic acts of the government and to mobilise public opinion to safeguard the Indian democracy. Organisations such as Citizens for Democracy, People's Union for Civil Liberties (PUCL), People's Union for Civil Liberties and Democratic Rights (PUCLDR) and Chhatra Yuva Sangharsh Vahini were at the forefront of human rights struggles at the national level. Dozens of state-level and city-based groups were also formed during this period. For example, Committee for Protection for Democratic Rights (Mumbai), Association for Protection of Democratic Rights (APDR) and Andhra Pradesh Civil Liberties Committee (APCLC) in Hyderabad.

With the national emergency lifted in 1977, horror stories of custodial violence and barbaric acts of torture in the police custody and prisons started pouring into the mainstream newspapers. Bright young men and women opted for investigative journalism as a career. Newly formed civil liberties and democratic rights groups started bringing out their newsletters and journals in English, Hindi and several regional languages. Even in the post-emergency period, the Janata Party that had earlier raised the slogan of 'Democracy versus Dictatorship', after came to power with popular mandate, brought into force draconian laws such as Preventive Detention Act, Industrial Relations Bill and condoned Essential Services Maintenance Act and Disturbed Areas Act to repress the toiling poor (Louis and Vashum, 2002). During 1980s, those who were concerned only about formal democracy confined themselves to 'civil liberties movement'. And organisations working against repression of the workers, poor, peasants, dalits, women and tribal people joined 'democratic rights movement'. This set the tone for human rights movements in India during 1990s that established their networks from local and regional to global level.

Now, we have reached a stage where social movements of all ideological hues accept 'emancipatory potential' of human rights. Even the mainstream institutions—universities, print and electronic media, religious organisations and political parties—with mutually exclusive interests talk about 'violation of human rights' in their campaigns. In the 21st century, the state of human rights in a 'post human' and 'machinistic' world is almost overwhelmed by security concerns, 'terrorist threats' and techno-science.

Political Economy and Human Rights Concerns

India's social demography reads as follows:

Approximately half of India's population of over 1129 million consists of women. India has at least 375 million children—more than any other country in the world; over 166 million people in India are dalits, known officially as persons belonging to scheduled castes and scheduled tribes; at least 70 million people are physically/mentally challenged; religious minorities account for almost 20 per cent of the population, including over 138 million Muslims and 24 million Christians; at least 25 per cent of the total population lives below the poverty line; *adivasis* (indigenous people/tribals) account for another 84 million; at least 2.4 million people are living with HIV/AIDS in India, as per the 2007 statistics; approximately 500,000 persons are internally displaced, due to internal armed conflict, ethnic, communal and other forms of violence; the total migrants, according to the 2001 population, are 315 million, a majority of whom are migrant labourers; a very conservative estimate indicates that the gay, lesbian and bisexual population in India constitutes about 10 per cent of the total population—that is, at least 100 million; no conclusive statistics exist on the number of transgendered and transsexual persons.

Human rights violations of vulnerable groups in contemporary India are the result of a complex nexus between the politics of identity, exclusion, inclusion and segregation, rooted in history, cultural ethos, politics and economics.

Almost 400 million people—more than 85 per cent of the working population in India—work in the unorganised sector. Of these, at least 120 million are women. The recent Arjun Sengupta Committee Report (2006) is a stark reminder of the huge size and poor conditions in this sector. A subsequent draft bill to provide security to workers, which bypasses regulatory measures and budgetary provisions, has generated intense debate. Lobbying around this report resulted into Social Security Act, 2008.

Contribution of Women's Movement to Human Rights Movement

Nationwide anti-rape campaign in 1980 resulted into emergence and proliferation of the autonomous women's organisations in several cities and towns of India. While doing agitation and propaganda work against series of rape cases in custodial situation, domestic violence and dowry harassment, these groups realised that to work on a sustained basis and to take care of the rehabilitative aspects of violence against women, it was important to evolve institutional structures for support to the women victims of violence based on feminist principles of solidarity (mutual counselling) and sisterhood. Criminal legal system in India made it inevitable for these groups to establish rapport with the police for an immediate redressal to the women victims of violence. Condition of women in the remand homes and the Nari Niketans were so repugnant and barbaric that they could not be trusted for women's rehabilitation. In fact, many women who suffered at their hands approached the new women's groups. The women activists had to deal with the attitude of victim baiting and double standards of sexual morality, sexist remarks and sick humour from the staff of the police, the legal apparatus and the public hospitals. At each and every step, they encountered class, caste and communal biases. These resulted into confrontation between the women's groups and the established institutions. But in course of time, they realised that it was necessary to suggest concrete alternatives in terms of legal reforms, method of interventions and staff training for attitudinal changes. For public education, literature written in convincing style was a must. Audio-visual material for reaching out to more and more people was necessary. Professional bodies and educational institutions were approaching these groups for understanding the women's question. In these context 'special interest groups' focusing on agitation and propaganda, media-monitoring, resource material for consciousness raising, creation of cultural alternatives, publications, research and documentation, bookstalls and legal aid work came into existence during the 1980s and got consolidated in the 1990s. These groups played complementary roles in each other's development, though the process was not so smooth.

Campaign for reforms in the Family Laws

While providing support to women facing problems concerning marriage, divorce, maintenance, alimony, property rights, custody of child/children and guardianship rights, the activists realised that the existing personal laws and most of the customary laws were discriminating against women. Hindu daughters were deprived of coparcenary rights in parental property as per the codes of *Mitakshara*. Christian women could not get divorce on the ground of husband's adultery; it had to be coupled with cruelty, bestiality and sodomy; while Christian

husband can just declare his wife as an adulteress and divorce her. This antiquated law was enacted in the colonial period to serve the interests of the British bureaucrats who had their legally wedded wives in England and were cohabiting with the Indian (in their language 'native') women. Parsee daughters who married non-Parsee men lost their property rights and non-Parsee wives of Parsee husbands got only half the shares in husband's property as per the Parsee Personal Law. Shariat Law subjugated Muslim women by imposing *purdah*, allowing polygamy and unilateral divorce by men to his wife/wives and by depriving divorced Muslim women of maintenance rights. Underlying philosophy of all these personal laws was that women are not equal to men. They are governed by the patriarchal ideology. Irrespective of their religious backgrounds, these personal laws perpetuate patrilineage, patrilocality, double standard of sexual morality for men and women and perceive women as dependent on men. Individual women from different communities have challenged the constitutional validity of discriminatory aspects of the personal laws in the Supreme Court of India. Increasing number of educated working women and housewives from all religious backgrounds have been approaching secular women's organisations. Main problems faced by them from their natal families have been forcible marriage, murderous attacks in cases of inter-caste, inter-class and inter-religious marriages, property disputes and incest, and from their husbands and in-laws have been adultery, bigamy, polygamy, divorce, custody of child/children, property, incest etc. As the issue of personal laws is intertwined with the religious identities, the secular women's movement had to face tremendous hostility from the elite of the different communities, mass organisations, patriarchal secular lobby and the parliamentary parties cashing on block-votes. Individual women (divorced, deserted, single and married under duress) are questioning discrimination in the customary laws. Tribal women in Maharashtra and Bihar have filed petitions demanding land rights in the Supreme Court of India. Several women's groups (Saheli, Delhi, Vimochana, Bangalore and Forum against Oppression of Women, Mumbai) and human rights lawyers' team (The Lawyers Collective, Mumbai and Indian Social Institute, Delhi) have prepared drafts containing technical detail of gender just and secular family laws. In 1996, Ahmedabad Women's Action Group (AWAG) filed writ petition to declare Muslim Personal Law which allows polygamy as void as offending Articles 14 and 15 of the constitution (Chorine, Desai and Gonsalves, 2000: 861). 'The issue of women's rights and family law reform has been increasingly entangled within the polemics of identity politics and minority rights', says a feminist lawyer, Ad. Flavia Agnes (2001: 1). On 23 April 1985, the Supreme Court of India awarded lifelong maintenance to an old divorced Muslim woman, Shah Bano. The communal tone of the judgment—which, instead of highlighting the right to maintenance of a divorced woman, spoke of 'Muslim woman' and 'Muslim husband'—created unnecessary and harmful polarisation on religious grounds. Lawyers, women's groups, progressive and conservative people reacted sharply. Demonstrations, rallies, petitioning, signature campaigns, media war, public meeting, both for and against the Muslim Personal Law—all totally communalised the issue of gender justice.

The women's movement has been among the most articulate, and heard, in the public arena. The woman as victim of dowry, domestic violence, liquor, rape and custodial violence has constituted one discourse. Located partly in the women's rights movement, and partly in the campaign against AIDS, women in prostitution have acquired visibility. The question of the practice of prostitution being considered as 'sex work' has been variously raised, while there has been a gathering unanimity on protecting the women in prostitution from harassment by the law. The Uniform Civil Code debate, contesting the inequality imposed on women by 'personal' laws, has been resurrected, diverted and restarted. Representation, through reservation, of women in parliament and state legislatures has followed the mandated presence of women in panchayats. Population policies have been contested terrain, with the experience of the emergency acting as a constant backdrop. 'Women's rights are human rights' has demanded a reconstruction of the understanding of human rights as being directed against action and inaction of the state and agents of the state. Patriarchy has entered the domain of human rights as nurturing the offender.

Dalit Women and Human Rights

The interface of the severely imbalanced social, economic and political power equations in caste and patriarchy impacts 'untouchable women' uniquely, distinctly from the experience of other women and even untouchable men. These forces combine to expose them to increased physical and sexual violence and increased exploitation of their labour. Together these keep untouchable women from having access to and control over assets and resources. It does not recognise their social and economic contribution. It limits their choices and opportunities, placing them on the bottom rung in all development indicators. This process of exclusion and discrimination inculcates the disrespect and indignity of untouchable women at the hands of all men and nonuntouchable women.

India is a democratic country and a signatory to most of the major UN human rights treaties. These treaties provide the same rights for men and for women. Because India is also a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),¹ the government has an extra obligation to make sure that women can realise their rights. It is generally accepted in international law that

governments have to do more than just pass legislation to protect human rights. The Government of India has an obligation to take all measures, including policy and budgetary measures, to make sure that women can fulfil their rights. It also has an obligation to punish those who engage in caste-based violence and discrimination. The Government of India, as a modern country with a growing economy, has the means to fulfil its obligations.

The National Campaign for Dalit Human Rights (NCDHR) is a coalition of dalit human rights activists, civil society organisations, journalists and academics who are committed to ending the caste-based discrimination and 'untouchability' practices that deny human rights and dignity to 170 million Indian citizens— one-sixth of India's population. Established in 1998, NCDHR is a non-party based secular platform centred in Delhi with offices in fourteen states around the country. NCDHR monitors atrocities, legal interventions and advocates nationally and internationally to achieve a three-pronged objective: (a) to hold the state accountable for all human rights violations committed against dalits; (b) to sensitise civil society by increasing visibility of the dalit problem; and (c) to render justice to dalit victims of discrimination and violence. All activities are supported by private contributions; they accept no government funding (www.ncdhr.org.in).

Challenges before Human Rights Movement

The urgent tasks before the human rights community in India are to consistently focus on the root causes of human rights violations both nationally and internationally and its specific political context. The war on terror is an attack on the rights and dignity of the workers, urban and rural poor. There is also a need to focus on the fact that the human rights violations on a world scale are due to the unfair terms of international trade and have resulted in the destruction of millions of cultures, economies and ecology. Documenting and exposing the growing role of intelligence agencies in the disinformation campaign and their penetration into the ranks of movements, including the human rights movement are also required. The argument that human rights must be sacrificed for national security must be countered. In fact preservation of human rights standards is the only way to ensure our nation remains secure, as violation leads to greater alienation of the victims. It is absolutely true that human rights is the most evolved form of western imperialism and it has been used selectively to justify gross human rights violations. The US opposed 150 times between 1984 and 1987 resolutions furthering human rights, peace, nuclear disarmament and economic injustice. It is equally true that human rights is also the only common language and framework for the oppressed and victims of that imperialism. The Universal Declaration of Human Rights (UDHR) is a product of thousands of struggles the world over and it needs to be evolved and become more inclusive, especially of collective rights. Human rights movement in India has rallied around fundamental rights guaranteed in the Constitution of India as human rights.

Conclusion

The character and structure of the human rights community has radically changed since the post-emergency period when India saw the first human rights movement emerge after independence from British colonial rule. The emergency period (1975–77) sensitised the middle class to fight for human rights as, for the first time, they experienced deficit in democracy in the post-independence period. Both top-down and bottom-up approaches are used by people's organisations to promote human rights. We must demand greater transparency from the government in dealing with militancy, which means that all fundamentalists, fascist forces have to be dealt with equal vigour. Those caught for violating the law and committing crimes must be punished but strictly in accordance with the law and human rights standards. The use of the politics of fear for narrow electoral and short-term political gains serves to encourage corruption among the investigating agencies and undermines the criminal justice system. The human rights movements are fighting both religious chauvinism and market fundamentalism politically and ideologically. They are promoting secular humanism and voicing the concerns of the oppressed, suppressed and brutalised human beings. Their commitment to human rights is not based merely on individual rights but that which includes the collective rights of the people.