

## **HUMAN RIGHTS MOVEMENT IN INDIA: CHALLENGES AND PROSPECTS**

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### **ABSTRACT**

The Human Rights Movement in India, unlike its counterpart in post-colonial societies, has established itself as a strong and vibrant nationwide movement against the repressive state approach and adverse power structure of traditional society. Democratic process and institutions, free press, independent judiciary and National Human Rights Commission have positively contributed in strengthening its base while on the other hand various developments within and outside the movement has created formidable challenges before the Indian HRM. Though human rights organizations have undergone significant changes in their nature, functions, objectives and priorities in response to the changing dynamics of human rights violation, role of state, social institutions and processes since emergency but they still face many challenges. This paper is a moderate attempt to highlight the major dilemmas and challenges before the HRM and to identify its inherent weaknesses that hinder it from becoming a movement addressing the human rights of the masses in the present day of globalization.

**Keywords:** Human Rights, State, Human Rights Movements, Violence and Terrorism

### **Introduction**

The Human Rights movements (HRM), after the Second World War, have evolved world over in an unanticipated manner and penetrated into the new domain of national and local level and their culture (Meyer, et al.1997). With the claim for recognition and protection of human rights by the people living in different parts of the world, human rights organizations, groups and activists continue to multiply at an unpredictable rate both at international and domestic sphere (Tsutsui and Wotipka 2004). With the expanding concern for preventing violation of human rights and implementation of international human rights laws and treaties, HRM in the last few decades have made its foundation strong in almost every society.

India which is having a vibrant HRM started its journey along with the global HRM, though civil liberties and democratic rights movements became active and widespread only in mid 1970s. Since then India has witnessed relentless growth of Human Rights Movement. The Indian HRM

carries special significance in the context of rampant violation of human rights by both state machineries and social forces. The HRM, since its inception, has been primarily engaged in opposing the state violation of human rights.

This paper tries to examine how the human rights organizations and groups are adapting to the changing situation by transforming their ideological positions and changing their objectives and strategies. It argues that unlike other social movements, HRM has been struggling since the time of emergency to establish itself as an effective and acceptable people's movement overcoming its 'educated middle class', 'foreign inspired', 'anti-state', 'anti-national' and 'pro-criminal' tag and to create the expected impacts on the political and social life of India. In contrast to its counterpart in the west, it has been constantly challenged by the powerful and oppressive state and social forces, along with its internal dilemmas, and limitations in regards to its organizational issues, ideology, objectives, actions and inactions and getting public mandates (Shah, 2004). This paper is a moderate attempt to highlight the major dilemmas and challenges before the HRM and to identify its inherent weaknesses that hinder it from becoming a movement addressing the human rights of the masses in the present day of globalization.

### **Human Rights Movements in India**

A vibrant HRM started during and after the national emergency (1975-77) in India though its origin can go back to pre and post independent period. The National Emergency was a turning point in the history of HRM in India. The Emergency that was imposed by the Indira Gandhi led government on 25<sup>th</sup> June, 1975 and continued up to 21<sup>st</sup> March, 1977 (21 months dark days of Indian democracy) changed the nature and scope of HRM in India; but to some it gave birth to the Civil Rights Movement in India. It is true that, it is only after the emergency, Civil Rights Movement became more organised and took the shape of a nation-wide movement. The atrocities committed by the state machineries, suspension of fundamental rights and violation of democratic procedure and values during that period resulted into a gross violation of human rights by none other than the state. This brought new widespread impetus for the growth of HRM in India (Shah 2004). In fact, the authoritarianism during emergency, besides intensifying the movement, led it in the direction of focusing on the civil and political rights and on state brutality and state violation of human rights. Secondly, the human rights movement that was so much attached to the Marxist ideology and CPI (ML) before emergency became relatively independent both from ideology and political parties during and after emergency

Human rights organizations, however, have undergone significant changes in their nature, functions, objectives and priorities in response to the changing dynamics of human rights violation, role of state, social institutions and processes since emergency. In the earlier period, the target of the civil and democratic rights groups was the human rights violation of the landless

peasants, poor and tribal people. Their main demands were basic socio economic and cultural rights which were later considered as ‘democratic rights’ in human rights discourse in India. However, the focus shifted to civil and political rights after the emergency. The human rights groups were involved in exposing various forms of state abuse of human rights and state terror. NadtitaHaksar (2008) considered this “as a great challenge that human rights movement took up with great deal of political commitment, facing the wrath of the state but maintaining its integrity”.

The prominent human rights organisations such as People’s Union for Civil Liberties (PUCL), People’s Union for Democratic Rights (PUDR), Citizen for Democracy (CFD), People’s Rights Organisation (PRO), Association for the Protection of Democratic Rights (APDR), Andhra Pradesh Civil Liberties Committee (APCLC), All India Federation of Organisations for Democratic Rights (AIFOFR), etc. have contributed significantly in the direction of protecting and promoting human rights in general and more particularly in applying certain brakes on the authoritarian behavior of the state through their methods of investigation, persuasion, advocacy, protest and judicial intervention.

Developments like the judicial activism, emergence of human rights NGOs, formation of National Human Rights Commission (NHRC) and the pressure from international human rights movements, have further strengthened the movement and as a result India has a more vibrant HRM in comparison to other newly emerged democratic countries in Asia, Africa and Latin America (Rubin, 1987). However, unlike its counterparts in the west, the achievements and contribution of the movement are being questioned very often by its critics and some time by its activists and intellectuals. This is primarily due to the constraints posed by the authoritarian state and fragile and unorganized society and the dilemmas and weakness of the human rights organizations and groups (Ray, 2003).

The rising cases of violent activities like militancy, terrorism, naxalism, casteism, communalism etc. and to counter them simultaneous growth of state violence otherwise known as ‘state terrorism’ or ‘war against terror’ are definitely increasing the importance and necessity of intervention of human rights organizations, more specifically in the disturbed areas in India. Further, in the present day of globalization, the regular violation of human rights that are taking place due to various socio-economic forces like caste, gender, wealth, and corporate and multinational companies calls for a strong HRM. The violation of socio-economic rights due to poverty, unemployment, gender discrimination, child labour, exploitation of weaker sections and inequalities and injustice caused due to the uneven development process under globalisation and the emerging concern for the protection and promotion of these human rights also demands the HRM to change its objectives and strategies going beyond the civil and political rights.

The present situation of social unrest, social insecurity, economic disparities and exploitation under globalisation and shrinking of democratic space have made the task of the human rights communities more complex and challenging than ever. More importantly, the dangerous impacts of ‘war against terror’, initiated by USA and supported and carried forward by Indian Government, on human rights of the innocent citizens make the situation more dynamic by bringing it under the larger process of present imperialism.

### **Challenges before HRM**

The movement has faced many challenges coming from the changing ‘state-citizenship interaction’, rising cases of terrorism and global war against terror, socio-political changes and from its own internal, organizational and ideological positions, issues and contradictions. The most perennial challenge that Indian HRM has been facing since its genesis till date comes from the state which not only perpetuates violence and violates human rights but acts very strongly against the human right activists. Invariably in all situations when rights organizations tried to expose the state atrocities, the state machineries tried to suppress the movement by various tactics and as a result rights activist end up facing the wrath of the state (Baxi 1998). In some cases, they are arrested in false cases and shockingly in few instances they are even killed through encounter. Nandita Haksar (2008) argued “this was a challenge that Indian human rights movement took up with great deal of political commitment, facing the wrath of the state but maintaining its integrity”. However, in the last two decades, HRM in India has gained strength in this front with the advent of judicial activism, NHRC and active civil society.

The division among the human rights groups on the ideological ground has been a matter of concern in the present day when ‘human rights’ is conceived as a all comprehensive concept that includes the three generations of rights. The shift of focus from civil and political rights to socio-economic and cultural rights and the recent emphasis on third generation rights poses a great challenge before the HRM of India. However, the rights communities in India are sharply divided into two groups. As mentioned earlier, the ‘civil liberties’ organisations mainly focus on the civil and political rights while the ‘democratic rights’ organisations are strongly in favour of socio-economic rights of the poor sections of the society. The concept ‘human rights’ is still considered as a western and foreign idea particularly by the democratic rights organizations. Therefore, sometimes rights activists are reluctant to apply this term (Jha 2006). This ideological position and divide are not complementary with the present HRM that focus on ‘all human rights of all human beings. With the proliferation of human rights institutions and NGOs working on different economic and socio-cultural rights which has hitherto been neglected by the civil rights movements, the term ‘human rights’ is gradually being accepted in the present condition. Integration of all human rights under the umbrella fold of HRM is a great challenge before the divided movement.

The rising cases of regional movement for national self-determination in North-East, Punjab and Kashmir, since 1980s onwards posed a challenging situation for the human rights organizations of India. The human rights abuses, violence and state oppression through its draconian laws, police and armed forces increased in such a proportionate that it went beyond the capacity of the human rights groups to address them properly though these organizations tried relentlessly to expose the state atrocities in these situations. The above situations not only revived the sense of national unity and integrity but also made the state more powerful and autocratic in the disturbed regions. Secondly, Indian HRM which works in the broad framework of individual human rights fails to take up the collective rights of oppressed nationalities living within the Indian borders (Haksar 2008). Nandita Haksar (2008) also argues “the Indian human rights movement functioned very much within the framework of the Indian State’s definition of nationalism. There is great hesitancy about supporting the rights to self-determination”. Thirdly, with the formation of human rights organizations by these people in their respective regions focusing exclusively on the violation of human rights at the local level, the national level organizations lost some grounds.

Another challenge of HRM emerged from its failure to address other kinds of human rights violations in the context of caste, gender, race, and at last environment. The human rights organizations failed to address the root causes of human rights violations by locating them in the specific socio-economic, political and cultural milieu in which such violations took place. India witnessed the growth of the ‘new social movements’ in the last two decades like Dalit, Women, Environment movements that create new challenges for civil and democratic rights movements.

The new people’s movement that has been continuously growing since late 1980s tries to address the issues of rights and livelihood of the poor and marginalized like landless and unorganized labourers, dalits, adivasis, peasants, urban poor, displaced people and unemployed youths. These movements integrated human rights issues along with social justice and development (Sangvai, 2007). Their concern for socio-economic rights further isolated human rights organizations and as a result HRM is left only with the civil and political rights violations by the state and gradually became less influential in the social and political life of the society. Some very vital human rights issues are taken up by dalit and women organizations and environment groups. As a consequence, the great question today before the human rights community is whether to adopt all these issues or to strict to its traditional task of fighting against the state brutality and violation of civil and political rights.

In addition to the new social movement, a plethora of so called foreign-funded human rights institutions and NGOs have come up following globalisation to address the issues of human rights particularly in the field of socio-economic rights which have been neglected by the civil and democratic rights groups. The recent developments indicate how the HRM is gradually

taking the shape of a ‘human rights industry’ in the age of human rights that is very well defined by Upendra Baxi as ‘trade-related-market friendly-human rights’. It is alleged that a large number of human rights NGOs came into existence to provide promising and lucrative career option to their founders and some of them are gradually converted to a money minting machine and therefore these institutions have the endemic potential of degenerating the movement, argued Aswini K. Ray (2003). Therefore, the credibility of these newly emerged NGOs and institutes with full time human rights professionals which are often criticized for corruption; unethical practices and misappropriation of fund, etc. create a challenge that human rights organizations find it difficult to face. And secondly, the challenge before the HRM is how to move from the human rights violation by state to the human rights violation by non-state actors which is a demand of the present day human rights discourse of globalization.

The recent international concern for terrorism and counter terrorism measures or the so called ‘war against terror’ having the support of the insecure people, media and the middle class, make the task of HRM more challenging. In the post 9/11 scenario, public security or national security has been in the top priority of all states and international agencies. Aswini K. Ray (2003) argued, “A contrived dichotomy between human rights and national security has been artificially orchestrated. This has posed new challenges for the movement in the terrorism affected regions in the country”. The widespread concern for people’s life and public security has changed the attitude and perception of the society towards human rights. General public now are less receptive to rights than in the past (Jha 2006). The present ‘war against terror’ makes state brutality and torture a legitimate form of promoting nationalism and public security and makes a large number of people; sometime the entire community vulnerable to human rights abuses (Haksar 2008). This scenario poses one of the greatest challenges before the HRM in the recent years.

Any action by the rights activists to protect the human rights in this situation invites criticism from public and media along with the strong action of state even though most of the human rights groups condemn the violence by the terrorists. Therefore, the question that arises should human rights organizations, with their limited man power and resources, engage in the question of public security in the context of private violence and ignore their primary agenda of exposing the illegal and autocratic behavior of the state security forces? Should human rights groups change their objectives under the pressure of changed public perception or stick to their original position and principles? The Indian HRM is engaged now in finding answer to these difficult questions (Jha 2006).

### **Critical Perspective and Future Prospect**

All the above discussed challenges that the HRM is currently facing is setting the road map for the future of the movement. The growing professionalization of HRM with the growth of large number of so-called human rights NGOs has raised serious doubts about the noble objective with which the movement was started in India. Further, the developments of last two decades have divided the human rights movement and isolated and marginalized the rights organizations. The rising cases of terrorism with a strong concern for national and human security are posing a great dilemma of selecting the right course of action. Nandita Haksar (2008) has rightly said, "The effect of these developments was that the human rights movement lost its vision and goal". The meaning and scope of HRM is also questioned in the context of many miscellaneous organizations, institutions, groups and individuals working in the field of human rights.

The HRM of India, unlike its counterpart in the west, has limited impact in terms of changing the nature of the state. Many of the effects of HRM are subtle yet pervasive. Even though the rights movement fails to produce the direct changes in state practices, but it still contributes to check state arbitrariness particularly in the present time of globalization when each nation-state is evaluated in terms of its human rights records at the international politics. It has missed the opportunity to reform the state institutions and legal provisions in many accessions in the past (Baxi 1998). Therefore, it has to work hard in the direction of amelioration of state institutions. The fact that can hardly be ignored is that the HRM of India has a lot of potential in terms of shaping the activities of the state and non-state actors provided it brings some transformation in its objectives, principles, organizational structure and operational techniques.

The human rights organizations have to rethink their stand on the definition and scope of human rights if they have to become effective in the present context of rampant violation of basic human rights across different sections of the society. The HRM has to build an alternative theory of human rights that takes into account the socio-economic rights and third generation of rights including collective and group rights going beyond the individual civil and political rights. At the same time, it has to shift its emphasis from the state violation of human rights to the violation of rights by non-state actors without compromising with its fundamental principles. To achieve the above said objectives, human rights organizations have to make efforts to work with the other institutions and agencies working in the field of human rights including the government to design long-term strategies to promote the human rights of all concerned. There is an urgent need to focus on the root causes of human rights violation and to work in the direction of addressing them.

All human rights groups must make their stand clear regarding the private violence including the one that is perpetuated by the terrorists or naxalites. They must adopt the policy of 'zero

tolerance to violence' and openly criticize and oppose any kind of violence rather than acting as a shield for those who spread violence. The need of the time is that human rights communities must try to expose and document all inhuman and illegal practices adopted by the state's armed forces and intelligence agencies while dealing with the terrorists and other strugglers. Nandita Haksar (2008) argued that the human rights groups need to fight both Hindu fascism and Islamic fundamentalism politically as well as ideologically. They have to ensure that secularism is used for promoting fraternity and greater democracy and not to promote oppressive nation-building. Though it is true that this task is beyond the purview of HRM, but it has to definitely play a role as the present human rights discourse includes the collective rights.

The important role that the human rights organizations are expected to play in the present context and alarming situation caused by the emerging international terrorism demands a radical change in the structure and operation of these organizations. They have to broaden their social and organizational base by spreading it to all sections of the society and to all areas without being attached to any political party or ideology. Efforts must be taken by the rights groups to mobilize mass to fight against the violation of human rights of any form and anywhere by adopting the constitutional and democratic methods. And most importantly the activities of these organizations must be conducted in a continuous basis on a more organized way. In order to develop a nation-wide human rights movement, there is a need to develop a common agenda and set of principles among the otherwise scattered rights movements (Baxi 1998). Last but not the least, these groups must develop a culture of self-assessment and self-criticisms which will make them more effective in designing the future of the movement.

It is not wrong to argue that the present notion of human rights is a part of western imperialism, but at the same time it is considered as the most effective instrument to get justice and to restore human dignity in the hands of the victims of this imperialism. Thus in the light of the present reign of terror and threat to public security, HRM needs to redesign its goal and strategy to have more effective impact on the social, political and economic discourse of human society so that it can emerge as a true champion and guardian upholding the life, liberty and dignity of individual and community. Though the future is more challenging, but with this, it is expected to play a more crucial role than ever in the days to come.

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