

Civil Liberties Movement and the State in India

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The question of human rights has to be analysed and understood in a historical context. The origin of struggle for the rights of human beings against the organised state and oppressive classes can be traced back to the early slave revolts against the rulers. But the concept as used in the contemporary context took its form in the wake of the Industrial Revolution. The growing market forces gave rise to the philosophy of liberalism. The Industrial Revolution, combined with the Renaissance, Reformation and Enlightenment, advanced the concept and practice of liberties and rights. The Renaissance of fourteenth-century Italy, Glorious Revolution of 1688 in Britain, the United States Declaration of Independence in 1776, the Declaration of Rights of Man adopted by the French National Assembly in 1789 contributed in no small measure to the fuller development and advancement of human rights. In fact, the struggles and movements for human rights carried out during the eighteenth and nineteenth centuries started bearing fruit only in the twentieth century. The century is striking both for its concern for human rights as much as their violation.

The highlight of the twentieth century is the crystallisation of the philosophy of human rights and freedom. This is clear in the Universal Declaration of Human Rights, dated 10 December 1948, under the umbrella of the United Nations. The preamble of the Declaration epitomises the concerns. It emphasises 'the recognition of the inherent dignity and of the equal and inalienable rights

of all the members of human family'. This is considered as 'the foundation of Freedom, Justice and Peace in the World'. It also expressed a deep historical concern when it stated that 'disregard and contempt of human rights have resulted in barbarous acts which have outraged the conscience of mankind'. It added that 'the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people'. It also cautioned that these rights are essential, 'if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law'.

The Declaration is a historic document setting the standards for achievement of human rights and was a source of inspiration for the national constitutions. The Declaration did not have the force of law. As a result two covenants came into being, the International Covenant of Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights. There was an optional protocol to the latter covenants. A country ratifying the covenant on civil and political rights undertakes to protect its people by law against cruel, inhuman or degrading treatment. It recognises the right of every human being to life, liberty, security and privacy of person. The covenant prohibits slavery, guarantees the right to a fair trial and protects persons against arbitrary arrest or detention. It recognises freedom of thought, conscience and religion; freedom of opinion and expression, the right of peaceful assembly and of emigration; and of freedom of association.

A country ratifying the Covenant on Economic, Social and Cultural Rights acknowledges its responsibility to promote better living conditions for its people. It recognises everyone's right to work, to fair wages, to social security, to adequate standards of living and freedom from hunger and to health and education. It also undertakes to ensure the right of everyone to form and join trade unions. The Indian government is a signatory to these two covenants.

In most of the developing countries like India, it was the anti-colonial struggles that gave a fillip to the whole philosophy and practice of civil liberties. For instance, as people in India grew restless and mounted pressure on the colonial system for political freedom, the human rights concept started growing roots. The

East India Company and later the British Crown introduced laws and regulations which were new to the Indian soil. In the year 1860 and 1862 the Indian Penal Code (IPC) and Criminal Procedure Code (CRPC) were introduced respectively. The introduction of a legal system and English education led to accentuation of the movements for freedoms and liberties. In fact, the struggle against the Rowlatt Act which sought to empower the state machinery 'to lock up anybody for as long as required without any trial' was one instance of the rising consciousness. As a part of the freedom movement, the nationalist leadership strived to give a sense of direction to the campaign for civil liberties. Dadabhai Naoroji was one of the first to raise the question of liberties. There were protests whenever the British attempted to introduce repressive laws. These protests did earn some concessions. In other words, the civil liberties concept took a shape in the swinging of the British state between its paternalistic and despotic poles.

The legal evolution of civil liberties can further be traced to the India Bill of 1895. In this Bill, the freedom to express thoughts, prohibition of punishment without trial and proof were incorporated. The Congress resolutions adopted between 1917 and 1919 demanded for freedom of speech and freedom of press. The Commonwealth Bill of 1925 included (a) liberty of person and security of dwellings and property; (b) freedom of conscience and free possession and practice of religion; (c) free expression of opinion and the right of assembly without arms and of forming associations and unions; (d) free elementary education; (e) use of roads, public places, courts of justice and the like; (f) equality before the law, irrespective of the consideration of nationality; (g) equality of sexes.

The Motilal Nehru Committee of 1928 insisted that Indians be granted all those fundamental rights which had been denied to them. The importance of the report was so high that ten out of the nineteen clauses of the report got incorporated in the Indian Constitution. But at the time the demands were rejected by the colonial regime saying that there were practical difficulties in enforcing them. The Congress session held in Karachi in 1931 passed a resolution on fundamental rights. In the year 1945 Sir Tej Bahadur Sapru brought forth a constitutional proposal stressing the importance of fundamental rights. In 1946, the Constituent Assembly constituted a sub-committee to go into the question of fundamental rights and the other non-justiciable rights. Thus, the liberties and rights

enshrined in the Indian Constitution were a product of the freedom struggle of the people of India.

The Constitution of India reflects not only the times and movements that preceded its drafting but also the increasing realisation of the essence of human rights at the international level. After the Second World War freedom, equality and rights acquired increasing salience in the world.

Another important aspect of the Constitution is the Directive Principles of State Policy. If the freedom struggle had become a comprehensive struggle of the oppressed masses, these principles would have automatically found a place in Part III of the Constitution. This provision is, however, one of the novel features of the Constitution. The Advisory Committee on Fundamental Rights had made a definite recommendation to the Constituent Assembly for the inclusion of this chapter. The Committee had come to the conclusion that in addition to these Fundamental Rights, the Constitution should include certain directives of state policy which, though not cognisable in any court of law, should be regarded as fundamental in the governance of the country. M.V. Pylee remarks: 'Thinkers on political and social reforms who did not agree with the Marxian approach for the eradication of the ills and evils of modern society advocated such principles to be made the guiding force of state activity' (Pylee 1984: 236).

The Directive Principles largely reflect the aspirations of the large masses of the country. The hopes of the masses were raised during the anti-colonial movement. They were not organised enough to get them incorporated as a part of the Fundamental Rights. The inclusion of these obligations was warranted for the purpose of legitimacy of the state. But for these rights, it would have been difficult to convince that the power and state apparatus are on the side of poorer sections. In fact, the relationship between the classes and the masses on the one hand, and the state and market on the other is reflected in this overall political arrangement. Political freedoms and property rights are guaranteed with the full force of law. But the socio-economic rights of the masses are stated only as normative declarations.

The Fundamental Rights and the Directive Principles put together present a broad vision of development for independent India. A genuine pursuit of this vision by the Indian state would have created the conditions for enlargement of freedoms and widened

the scope of justice. The quality of human rights would have been far higher. But in practice the path of development was not paved keeping the constitutional vision of development in mind. The path chosen resulted in retarded development, giving rise to violent distortions in the polity. The distortions are manifest not only in the widespread restlessness in society but also in the types of amendments that were made to the Constitution of India over a period of time. It is, however, interesting to note that the struggles for the liberties and freedoms were not fully reflected in the Constitution. The founders of the Constitution did not intend it, and therefore, there was no realisation of these freedoms. It appears that the minute power was transferred, the process of making compromises began. The hesitancy of the rulers was initially evident in the restrictions that were imposed on the fundamental rights. The restrictions through the many qualifications in the various articles are so large in number that one gets the impression that the rights given with the left hand were taken away by the right hand.

There are several undemocratic provisions in the Indian Constitution such as preventive detention. This is a legacy of the British. This is meant to detain a person to prevent him/her from indulging in any activity which is considered to be prejudicial to the security of the state and anti-social in nature. In Britain and America this provision was used during World War II whereas in India it can be used even in peacetime. This provision has been extensively used against the political dissidents during the post-colonial period. Justice Mahajan of the Supreme Court of India has held that 'preventive detention laws are repugnant to democratic constitution and they cannot be found to exist in any of the democratic countries of the world' (Desai 1986: 83).

Another major limitation on the Fundamental Rights came from the constitutional provision providing for emergency. Article 352 of the Constitution confers on the President the power to proclaim emergency either in the whole country or any part of the territory. He can do this on the grounds of war, external aggression or armed rebellion and internal disturbances. The fundamental rights remain suspended during the proclamation of emergency. The provisions of the emergency have been used three times, suspending the fundamental rights of individuals to move the courts to seek redressal against arbitrary arrest and deprivation of

personal liberty. Henry C. Hart observes: 'The President, with an emergency in effect, can at a stroke suspend the Bill of Rights and close the Courts to any citizen's appeal for a writ, such as habeas corpus to test the validity of the government's invasion of his rights.' He adds: 'With the cooperation of a complacent president . . . a prime minister can find in the Constitution powers to jail critics including members of Parliament, censor press reports of Opposition speeches in Parliament, arrest citizens assembling in any constituency to protest and thus cow down Parliament into perpetuating emergency' (Hart 1980: 430).

In fact, there have been numerous amendments to the Constitution which gradually reduced the scope of freedom. The First Amendment modified nine articles and added two additional articles as well as a new Schedule. This Amendment introduced the Ninth Schedule which gave absolute protection to various statutes passed from time to time. Although the original intention was to protect the agrarian reforms, the later developments indicate that it was more abused than used. For it became, as Govind Mukhoty put it, the 'sanctum sanctorum' for arbitrary executive power. The Amendments included curtailment of freedom of speech. This was done through the Sixteenth Amendment (in 1963) following the India-China war (1962). Between 1964 and 1974 several items and statutes, through various amendments, got included in the Ninth Schedule. The Forty-second Amendment of 1976 made the Fundamental Rights (Articles 14, 19 and 31) non-justiciable, although two years later the 44th Amendment reversed that decision.

The emergency provisions which were mentioned earlier have also been amended from time to time. The 38th Amendment (1975) amended Articles 123, 213, 239, 352, 356, 359 and 360. The amended articles make the satisfaction of the president or the governor regarding the existence of circumstances necessitating the promulgation of an Ordinance final and conclusive, and declared that it shall not be questioned in any Court of Law on any ground. Subject to certain provisions, neither the Supreme Court nor any other court shall have jurisdiction to entertain any question on any ground, regarding the validity of the declaration. Although the 44th Amendment restored the original position of the rights and made declaration of emergency difficult, the 59th Amendment (in 1988) amended the Constitution to extend the presidential proclamation of emergency in Punjab for one year. The Government also brought in Terrorist And Disruptive Activities (Prevention)

Act (TADA) empowering the state apparatus with arbitrary authority. The 59th Amendment took away the right to life of the citizens.

An analysis of the Amendments reveals continuous abridgement of Fundamental Rights over a period of time. If the trend continues, and is allowed to continue, the feeble democratic structure will give way to a brazen despotic and authoritarian rule. The evidence suggests that Indian society continues to experience trends of authoritarian rule. There is a need to analyse these trends in the context of the larger socio-economic development and movements in the country. For, it is on these movements and developments that the future of civil liberties and democratic rights in India rests.

II

Even though the Indian state, notwithstanding the limitations, started with a reasonably impressive socio-economic programme after Independence, the question of fundamental freedoms did not assume any importance until 1967. The emergency provisions that were invoked in the wake of the India-China war were not resisted as the climate was emotionally surcharged. This was also the period when the state was looked upon as an agent of change. The abolition of the zamindari system, launching of the major irrigation projects, huge investment in public enterprises, etc., served an ideological purpose and provided considerable support base to the Indian state. The poorer classes believed that these measures by the state would lead to restructuring of the socio-economic order.

During this period, if one examines the Constitutional Amendments, the inclusion of the Ninth Schedule itself was actually an affront on the question of liberties. But this was not felt as such because initially the laws passed against the jagirdari and zamindari systems were included in the Ninth Schedule. The Fourth Amendment (1954) removed the jurisdiction of the courts with regard to the compensation to be paid. These decisions gave even greater legitimacy to the state. But the Sixteenth Amendment (1963), i.e., in the wake of the India-China war curtailed the freedom of speech. This was done in the name of protecting the sovereignty of the nation. In this amendment, one notices the beginning of the restrictions to the basic civil liberties of the people. By the mid-1960s, the contradiction between the Fundamental Rights and the Directive Principles assumed serious proportions. While

there are always possibilities of reconciling the demands for social justice and the need for basic political freedoms, there was an attempt to blow up their dichotomy. Although the controversy led to the removal of the Property Right from the list of fundamental rights, it did not amount to any serious step towards structural change. The net outcome was that the fundamental rights chapter of the Constitution was made considerably controversial.

During the period 1967 to 1977, the Indian polity underwent a significant change both in terms of crisis of the economy and the patterns of state response. In fact, the symptoms of the cracks in the political economy became increasingly evident. One of the important causes for the cracks was that the development strategy had led to widening of disparities and deepening of poverty. Neither the Nehru–Mahalanobis model, nor the green revolution resulted in better living conditions for the vast masses. The disillusioned masses started sending the signals. The Naxalbari uprising (1967) on the one hand, and the JP Movement (1974) on the other, were significant societal responses. There were also several regional and sub-regional movements during this period. This was also the period when there was a fall in industrial growth, there were incidences of severe drought and as high as a 40 per cent rise in food prices. The rupee had been devalued in 1966. All indications signalled a deepening of the crisis.

This was also a period when the landed gentry acquired new economic power because of the new agrarian technology and greater appropriation of surplus labour. This led to their making claims for a higher share in political power. There were structural limits beyond which their share in power could not be increased. This disturbed the overall balance of the ruling forces and their political equilibrium.

There was yet another development. The massive public expenditure that was incurred during the first phase of development resulted in considerable leakages giving rise to a section of a neo-rich class which mastered the techniques of manipulation of power. This class can broadly be characterised as the lumpen class. This class includes the contractors, real estate dealers, liquor traders, rentiers speculators, gamblers, cinema producers, actors, so on. They emerged as a significant political force (Sethi 1975), and their access to political power had increased in amazing proportions.

This was also a phase when the growing consciousness of the poorer sections of the society manifested itself in different movements. It was this objective condition that gave rise to the Indira Gandhi phenomenon. She dismantled many of the structures, institutions and norms that her father had so laboriously built. The state started assuming a very repressive character. This repressive character is quite evident from the Amendments to the Indian Constitution that were carried out by her.

The Amendments during this period went on including larger and larger numbers of items in the Ninth Schedule. The 40th Amendment (1976) added sixty-five items to the list. As mentioned earlier, the 42nd Amendment made the Fundamental Rights non-justiciable. The Amendment, it was argued, was needed to enforce the Directive Principles of State Policy. The Thirty-eighth Amendment made the decisions of the president and the governor in issuing ordinances in certain matters non-justiciable. This indicated a gradual shift towards a more repressive state. But there was political dissidence within the country which posed such a challenge to her that she had to impose an emergency on the Indian people to maintain her rule.

The emergency came as a shocking experience to the elite and masses alike. The emergency did not spare even the liberals. A large section of the middle classes—who constitute one of the important social bases of political power—were disillusioned. The repression that was released was massive and arbitrary. The torture, the encounter deaths, the illegal detentions, killing of prisoners were the manifestations of the extent to which naked physical force was being used at the time. The total choking of the throat and voice of the society was the essence of the emergency.

It was these objective conditions that led to the growth of the civil liberties movement in India. The deep institutional crisis and the erosion of rule of law on the one hand and poverty, unemployment, inequalities, uneven development and injustice to the weak and vulnerable on the other, contributed to the growth of the movement. In fact, the resistance movements launched by the poorer sections of the society provided the stimulus for the civil liberties and democratic rights movements.

The post-1977 phase witnessed tremendous deterioration in the civil and democratic rights situation in the country as the state

became increasingly repressive. This trend unfolded despite the fact that post-Emergency India saw an affirmation of the commitment to civil liberties by a wide spectrum of political forces, liberals, Marxists and Gandhians. In 1977, Mrs Gandhi was thrown out of power. The lifting of emergency and defeat of Mrs Gandhi at the 1977 polls created new hope. The Janata Party, which came to power, was largely a product of the JP movement. In fact, several of them who came to power were people who suffered the emergency and its draconian laws. Many prisoners were released and some cases were withdrawn in some states. In the wake of these developments, the 44th Amendment was moved. The move was mainly to ensure that the provisions of the emergency were not misused again. The Amendment did not remove the provision for emergency totally.

In the place of the expression 'internal disturbance' the expression 'armed rebellion' was used. It introduced periodic approval of national emergency by Parliament, which did not exist earlier. The Forty-fourth Amendment provided that the proclamation can continue only for six months, if approved again. The Janata government did not drop any of the repressive laws including the preventive detention law. However, a more important development was that the party did not last long in power. Mrs Gandhi came back to power in 1980.

Mrs Gandhi's second term was full of turmoil. The protest and resistance from the people moved to a higher level. The Naxalite Movement along with other peasant and tribal movements expanded its ground and support structure of protest. The tribal movements acquired new momentum. The ethnic questions assumed fresh dimensions. Kashmir, Punjab, Assam and the North-east became turbulent. There was a steady rise of regional parties. The Indian state was not able to creatively respond to the new questions that had been thrown up. The rulers' only answer to any such problem was repression. This was the period when several black laws were passed. The Government of India issued an ordinance on 27 July 1981 prohibiting strikes. It entailed a virtual freezing of the conditions under which hundreds of millions are condemned to toil and live on the brink of survival. Earlier, in December 1980, the National Security Act which virtually armed district magistrates and police commissioners with wide-ranging powers including the power of detention of any person without trial, was enacted. Less

than a year later, in September 1981, the Essential Services Maintenance Act (ESMA) was promulgated. On 3 May 1983, the Lok Sabha passed the Central Industrial Security Force (CISF) Bill, transforming the character of security forces. The Act empowered any member of the CISF to arrest a person without a warrant or orders from a magistrate. The Amendment states that no member, without previous sanction of the central government or the prescribed authority can become a member of any political party or trade union. The National Security (Second Amendment) Ordinance 1984, and the Terrorist Affected Areas (Special Courts) Ordinance have given wide powers to the police and other state agencies. The 59th Amendment to the Constitution of India was passed in 1985 ostensibly to contain terrorism in Punjab. But its enforcement all over the country has, in effect, taken away the right to life guaranteed in the Constitution. This was one of the most repressive and draconian laws passed by the post-Independence regime. The cases of detentions, police atrocities and encounter deaths continued to grow. The accounts provided by the civil liberty groups of India, the Amnesty International and other details documented by A.R. Desai indicate the magnitude of the problem (Desai 1986).

This was the phase when emergency got reduced into 'mini-emergencies'. The problem areas and the protest movements were dealt with in a ruthless manner. The national emergency fades into insignificance before the brutality that the state apparatus has been releasing against the people. In these areas, where the movements are on anvil, the normal laws do not operate. Nor do the institutions of the state—judiciary, press, civil bureaucracy, magistrates—assert themselves. The public opinion, particularly of the middle classes, is totally blunted. Given these conditions there is no security to any individual from the coercive state machinery. The Indian civil liberties movement is being shaped by this larger changing situation while shaping the emerging democratic opinion to some extent.

III

The movements for Civil and Democratic Rights originated, as mentioned earlier, in the late 1960s. The late 1960s was a period of political uncertainty as the conflict within the ruling classes got

sharpened and there were signs of mass revolt. The Indian state had difficulty in coping with the problems. Consequently, it started arming itself with greater and greater coercive power. It is this increasing arbitrariness of state behaviour that, in a way, was the main provocation for the democratic rights movement. The main propeller of the growth of civil liberties movement was the declaration of emergency which suspended the fundamental freedoms guaranteed in Part III of the Indian Constitution. The liberals, who had greater faith in the constitutional values, were left disillusioned. It was they who provided the base and the leadership for the civil liberties movement.

Mohan Ram observes that 'in India the attack on civil rights began with an attack on the extreme left—the Naxalites. The collective conscience of the intellectuals and political elites were blunted as brutalisation of politics found expression in the severe repression against the Naxalite Movement'. The movement had thrown up very important questions relating to both the nature of the state and the alternatives available. As a part of this serious development, the adequacy of the fundamental rights came to be questioned. This led to different formulations. One formulation is 'Fundamental Rights (or Civil Rights) are the basis for the struggle for democratic rights which go beyond civil rights'. Mohan Ram adds: 'Democratic rights are needed by those who have to struggle for social justice while fundamental rights are adequate for the privileged'. He further says: 'The struggle for democratic rights in essence is the struggle to assert the rights already guaranteed formally but not ensured in practice. Denial of democratic rights takes the form of an attack on the right to assert rights already guaranteed' (Mohan Ram 1986: 91–95).

Two major Delhi-based organisations, namely, the Peoples Union for Civil Liberties (PUCL) and Peoples Union for Democratic Rights (PUDR) started work as a single organisation (PUCL and DR) to begin with. In the process of working during the period 1977–80 the two perspectives came into conflict. Those who shared the perspective of democratic rights were willing to go beyond mere constitutional rights. The democratic rights perspective asserts that the deprived and starved have a right to organise and struggle even for the total change of the system as they do not find solutions to their problems in the given socio-economic system. The civil liberties activists, on the contrary, carried the perspective

that the fragile institution of democracy requires to be strengthened. The preservation of these rights, they maintain, is essential for civilised governance. These two approaches together can provide a comprehensive human rights perspective.

The position, place and role of the human rights movements, in the ultimate analysis, depends upon the nature of the state, the level of social protest and the sensitivity and consciousness of the people in general and the middle class in particular. Of all these factors, the state factor, perhaps, is very important.

The western states are essentially products of a struggle between the feudal and the bourgeois classes, the rise of market forces, emergence of civil society and pluralistic nature of sovereign power—all contribute to the rule of law and a liberal polity. These patterns of power are sustained by a particular level of material development. In most of the third world countries, the productive forces are retarded by persisting internal anti-developmental feudal practices, institutions and ideological structures. Literally, they are the grinding stones around the neck of the productive forces. Added to it, the global economic processes do not leave enough space for the accumulating classes to invest and expand the forces of reproduction. It is these two factors that account for the major crisis and the increasingly repressive character of the state.

Historically, the anti-colonial movements have not completed the task of creating genuine democratic systems. Democracy, in fact, is not merely a form of governance, it is a way of life. Superimposition of a democratic polity of an undemocratic socio-economic order leads to tremendous tensions. It was Dr Ambedkar who said that a constitution which cannot create a real democracy would be blown up by the people. The state and society in India, by and large, remained undemocratic and the social and political institutions continue to be characterised by dominance. The state, which is not capable of introducing structural changes nor of handling the complex socio-economic situation, has been gradually abandoning its earlier promises reflected in Part III and Part IV of the Indian Constitution. One can notice a significant connection between the retreat of the state from the welfare and development domains and the increasing trend of repression. The Amendments brought to the Constitution from time to time indicate this significant correlation of political and economic forces.

The people—particularly the oppressed—are with few options. They take the initiative and strive and struggle to reorder and restructure the society. The state, given the monopoly over force and power, reacts with repression and terror. In the process, the Constitutional norms are thrown to the winds. The rule of law becomes a total casualty at the hands of the ruling classes themselves. As the rights and freedoms are suppressed, the democratic space available to the people gets choked. Protecting this democratic space itself becomes a priority item on the agenda of transformation. The civil liberties movement in India is located in this space. The major demand of the civil liberties groups all over the country relates to enforcement of the rights enshrined in the Constitution and ensuring implementation of the laws that are passed from time to time to help the poorer sections of the society.

The civil liberties movements, however, are often faced with a crucial question, i.e., in the event of the state resorting to repression, do the people have a right to resist? What should be the form and modus operandi of such movements? Supposing the movements become lawless and violent, how should such movements be treated? The thinking and philosophy in the state circles, particularly the coercive apparatus is that the constitutional norms and legal niceties are meant only for the law-abiding citizens rather than the law-violating forces. In fact, the repressive laws are passed only on those assumptions. At one stage, they feel that any law can be a handicap in performing their order maintenance function. They demand that unless they are armed with arbitrary power, they would not be able to handle an 'anarchic' situation. They carry this argument to its logical limit and equate private or political violence with state violence. Once this logic is accepted, the torture through third degree methods, the encounter deaths, the lock-up deaths, the massive raids on the villages, the rapes they commit, all become a part of their effort to restore law and order.

It is at this stage of repression that they carry a massive propaganda against the human rights activities. The activists who support democratic rights and the right of the people to fight for a decent and dignified life become 'extremists'. They are meted out the same treatment as that of the armed political activists. This leads to direct attack on the human rights activists themselves. The killing of Dr Ramanadham—a pediatrician, in 1985; Japa Laxma Reddy—a senior and widely respected leader, in 1986; Prabhakar

Reddy—a young advocate and a village sarpanch, in 1990, was a part of this process. All of them were very responsible members of the Andhra Pradesh Civil Liberties Committee (APCLC). This fully exposed the reality behind the democratic credentials of the polity.

It is also striking to note that all those who advocate the civil liberties and even confine their struggle to seeking only the constitutional guarantees, are also dubbed as foreign agents or partisan and one-sided.

The state carries out an untiring propaganda against the human rights movement. It uses its huge resources and the mass media and tries to make the so-called free press to fall in line. If a few democratic-minded journalists refuse to submit and report the truth, they also face the same fate—intimidation, physical attacks and sometimes killings. The human rights activists and the journalists—coming from a middle class background as most of them do—find it difficult to withstand the physical attacks. Unlike the armed activists, the civil liberties activists are powerless and helpless in the face of the massive state apparatus. They become the most vulnerable individuals. They also face opposition from the families, friends, colleagues and members of their class in general. In fact, the middle class becomes spineless and loses the nerve against a repressive state. Some liberal activists shift their stand very fast. They not only make compromises but gradually degenerate into a self-seeking and self-aggrandising class of individuals. Those human rights activists who take the risk of standing for certain basic human values need guts of an exceptional order. Seen from this viewpoint, the scenario in India is not bleak but not very encouraging either.

In such a situation what are the other autonomous spaces available to these groups? Does entry into these spaces provide them some support structure which can sustain them? Is there a space which the people's movements have not been able to occupy nor are likely to occupy in the near future? While in search of an answer to such questions, the civil rights groups found that the formation of civil society itself is incomplete. The human rights groups can explore this space and operate in it. This has two major implications for the movement: (a) the activism in the social realm offers several entry points where the base of the movement can be expanded; (b) working in the social spaces can weaken the repressive

state which draws its brutal power from these structures of dominance. In other words, can the human rights movement move into social space and participate in the process of democratising not only the state but society itself?

In an unjust society the structures of dominance are multiple. In fact, the repressive state is rooted in those structures of dominance. It would not be strategic and perhaps not in the larger interest, to restrict the human rights movement only to encounter state repression. It is necessary that the movement respond to all the other struggles that are carried out by different sections of society. These movements could be anti-patriarchal, anti-dowry, pro-preservation and so on. The movements against caste, class and gender atrocities take place more in a civil society. Any progressive movement which has a built-in democratic element may be treated as part of a wider human rights movement. In fact, certain civil liberties organisations in India have moved in that direction. This needs a serious debate. There are movements against the prevailing model of economic development exposing its anti-people character. This can also be considered as being within the legitimate domain of the human rights movement. The path of development can have disastrous consequences and may result in great hardships to the poorer sections, and endanger human rights as a whole.

Development through construction of big dams or location of a heavy industry can result in displacement of thousands of people and destroy environment. The fight against such projects (including atomic plants), against defective forest policies, etc., can form an integral part of the human rights question. On another front, implementation of anti-poverty programmes or minimum wage legislation, protection of the child and migrant labour from excessive exploitation can equally be the concern of human rights movements. This list of rights is by no means exhaustive. The essence of the argument is that it is these concerns that can create the necessary socio-economic conditions for human rights and freedoms at one level and the necessary support structure for their sustenance at another.

The political system has a whole set of institutional forms and their accountability to the society, particularly to the disadvantaged groups. In this regard one can explore the space available in the realm of judiciary, although the overall performance of the judicial

system, as far as the poorer sections are concerned, is not that encouraging. The legal system as such is in a crisis. In a country like India where a large number of the poor live in villages, there is no access whatsoever to modern channels of justice. As a result, there is a parallel judicial system in the rural society. They tend to be totally arbitrary and oriented towards the landlords or the upper strata. Can human rights movements take up these questions? Can they, through their own movements, create a space in the system where the poor can get some redressal through the available institutional forms?

Another institution which needs attention is the jail administration. The prisoners are not only ill-treated but suffer on several counts. In a country like India the jails are not looked upon as a mechanism for reforming deviant human beings. The human rights perspective does believe that the real cause for deviant behaviour is systemic and not individualistic. At present the jail administration is largely dehumanised. It involves very serious questions relating to human values. Human rights groups can also walk into this space and put pressure on the system for better treatment of those human beings who are the consequence and not the cause of an inhuman system.

Another dimension that seems to be becoming important is the global linkages of the human rights movement. The Amnesty International, with its worldwide network, has done impressive work for the cause of human rights. Their reports on India from the early 1970s to the late 1980s on all the sensitive issues hold a mirror for the fast-deteriorating situation. Agencies like Asia Watch are also becoming important. The states want globalisation of the economy but not of human rights. They are arguing against 'foreign' intervention. Once a senior police officer asked us: 'What right do they have in interfering in our internal affairs?' Another police officer asked: 'Is the human rights situation alright in the western societies?' Yet another asked as to what was the explanation of the US-based Asia Watch for the violation of human rights of the blacks in their country? These are the defences of the state agencies against international public opinion and pressure. However, in some of these 'post-colonial' societies which have suffered long spells of colonialism in the past, the bureaucrats and police personnel do react and respond to international pressure because of various historical reasons. This is the silver lining in the otherwise

dark cloud. While the unification of the nations on the economic plane may not be that desirable at this stage of world development, solidarity of the democratic forces on the human rights front is not only necessary but desirable.

The international financial agencies like the World Bank and the International Monetary Fund (IMF) have been using the rhetoric of human rights. Given the nature of their interests, they probably do not carry deep convictions. This is evident from the way the whole question of the Human Rights Commission was dealt with by the Government of India. The half-hearted treatment of the demand of these agencies is partly a result of the belief that the demand itself is a half-hearted demand. On the eve of the Indian Finance Minister's visit to Washington in 1993 for raising another massive loan, in 1992 the prime minister called for a meeting which included chief ministers who are known for their utter disrespect for human rights. The prime minister did not invite any of the human rights organisations, nor any known activists for the discussions. The National Human Rights Commission Bill was passed in the Parliament, and it was constituted in 1993. The whole approach indicates the utter callousness and non-seriousness towards the problem of human rights. If the demand from these financial organisations lacks seriousness, the response of the governments is bound to be rhetorical and ritualistic. It may not be safe to leave the question of human rights to organisations of world economy whose character and work, in essence, constitute the violations of rights and freedoms of the people, particularly of the third world.

Human rights in India have a complex multidimensionality. The future of human rights would depend, in the ultimate analysis, on the levels of consciousness and the emancipatory politics. People need to transform the structures of domination through their movements and create the conditions of freedom and justice. It is in this complex historical process that human rights may have to find their base, space and place. The human rights movement is essentially a complementary movement, complementary to social struggles. Yet, it has an autonomous space. It is in utilising this space that they would not only decide their own future but the future of human rights and freedom. The movement in India is progressing through this complex route. One has to keenly observe the unfolding phenomenon and also participate in it to grasp this vital and vibrant human experience.

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