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A Study of Human Rights Organizations and Issues in India

Thesis submitted
in partial fulfilment of the requirements
for the award of the degree of
Doctor of Philosophy

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Abstract

The aim of this study is to examine the idea and practice of human rights in the particular context of India, with reference to a diverse set of organizations that emerged as a response to rights abuse, perpetrated both by state agencies and by dominant sections of the society. This work examines thirteen such organizations: ten of which are indigenous non-governmental organizations (NGOs), two are governmental organizations, and one is an international NGO, namely Amnesty International.

The development of the idea of human rights in India is examined with reference to the major religious traditions, and the contributions of some national leaders (Gandhi, Nehru and Ambedkar). It is argued that the demand for civil and political rights, first raised by the Western educated elite, grew as a response to changes in the political system during the British rule, and was incorporated in the nationalist ideology, championed by the Congress party. The first human rights organization, established in 1936, became a model for various organizations that were formed in the post-independent period. Political developments towards the end of the 1960s and early 1970s gave rise to a set of organizations with limited agendas. After the period of national Emergency (June 1975-March 1977), as the organizations reconstituted themselves, they also diversified and expanded their agendas.

The successful role of Amnesty International in highlighting rights abuse in India is described. This is contrasted with its Indian section, which has been beset by organizational problems.

The circumstances in which the Indian organizations were formed, the way they have developed and how they function is examined. The work also focuses on issues surrounding their relationship with political parties, membership and leadership, attitude towards funding, relationship with each other, and the scope of their concerns. It is argued that though they differ in their origins, histories, ideological orientation and strategies of intervention, they share the same basic perspective, to gather information and influence implementation of human rights by the state.

In examining the nature of response of the Indian government to allegations of rights abuse, it is shown how in the last three decades a shift in policy has come about. The pressures that led to the establishment of two governmental organizations, as well as their actual functioning is discussed and examined. It is argued that this has contributed to making human rights discourse more public.

The organizations are finally brought together and examined in relation to a series of issues concerning their nature and future. It is argued that the 60-year human rights movement continues to evolve and mature, and has a significant role to play in the future.

Between the idea
And the reality
. . . . . .
Falls the shadow

--T. S. Eliot

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1

Introduction

The Universal Declaration of Human Rights (1948) for the first time placed human rights on a global scale. Since then there have been many attempts to give concrete, legal and accountable shape to the general principles of the Declaration in international instruments such as the International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (1966). Human rights organizations play a significant role in promoting and protecting rights of individuals and groups, often mediating between the them and the state. This work is devoted to examining the role of thirteen such organizations in India: ten of them are indigenous non-governmental organizations (NGOs), two are governmental organizations, and one is an international NGO, namely Amnesty International.

In this introductory chapter, I begin by first stating the aims and scope of the study. This is followed by a brief introduction to the organizations studied and the reasons for their selection. In section 3, I outline the methodology; and the next section points out distinctions between this and some other works. Section 5 is a discussion of the notion of human rights and some of the important debates surrounding the concept. These provide a framework for understanding the Indian human rights scene as organizations try to carve out niches for themselves.

1. Aims and Scope of the Study

The recent past has seen a burgeoning of cause-oriented voluntary associations throughout the world, especially non-governmental organizations devoted to the issue of human rights. In India, this has occurred as a response to rights abuse, perpetrated both by state agencies such as the army, paramilitary or police forces,

and by dominant sections of the society through various forms of exploitation and domination.

Most of the organizations were established in direct response to what were seen as gross and systematic violation of rights by the state. However, they embody different ideological tendencies and disagree over definitions, priorities and causal explanations. My aim is to analyze the reasons for organizational priorities and actions. This involves a detailed examination of the structure and functioning of the organizations, their declared goals and policies, as well as their implicit purposes.

The aims of the study are, therefore: a) to give an account of the significance and limitations of the idea of human rights, and to understand it in the particular context of Indian society and polity; b) to examine the background, nature, aims, structure and functioning of the human rights organizations in India and to unravel the diversity of practice behind the universality of the idea: c) to understand the nature and causes of different forms of rights abuse in India; and d) to move towards a generalization of the situation -- i.e., an understanding of the role and significance of the organizations in a wider context.

2. The Organizations

The study encompasses what might be called the "universe" of human rights organizations in India. It considers one international NGO, six national-level NGOs, four regional NGOs, and two governmental organizations. These organizations constitute the main tendencies and almost the entire spectrum of the human rights movement in India.

International Organization. Amnesty International suggested itself as it is the only international NGO operating in the area of human rights in India which has had any visible impact on the government.[1] As will be seen later, its success cannot be matched by any of the indigenous organizations.

Table 1.1
The Organizations

International	National	Regional	Governmental
Amnesty International	CFD	APDR	MPHRC
	PUCL	APCLC	NHRC
	PUDR	CPDR	
Amnesty (Indian Section)	PRO	NPMHR	
	IPHRC		
	AIFOFDR		

National-Level Organizations. Six national-level organizations are:

1. Citizens For Democracy (CFD), Delhi;
2. Peoples Union for Civil Liberties (PUCL), Delhi;
3. Peoples Union for Democratic Rights (PUDR), Delhi;
4. Peoples Rights Organization (PRO), Delhi;
5. All India Federation of Organizations for Democratic Rights (AIFOFDR), Bombay; and
6. Indian Peoples Human Rights Commission (IPHRC), Bombay.

CFD is the oldest national level organization. PUCL and PUDR are the most "visible" of the organizations at the national level. PRO, a more recent organization, represents the modern developments in the human rights scene in India. AIFOFDR is a federation of seven constituent organizations. IPHRC appoints tribunals of retired judges to investigate "gross and systematic violation of human rights." The first four are based in New Delhi, while the last two are Bombay-based. All of them extend their activities throughout the country.

Regional Organizations. Four regional organizations are:

1. Association for the Protection of Democratic Rights (APDR), Calcutta, West Bengal;
2. Andhra Pradesh Civil Liberties Committee (APCLC), Hyderabad, Andhra Pradesh;
3. Committee for the Protection of Democratic Rights (CPDR), Bombay, Maharashtra; and
4. Nagaland Peoples' Movement for Human Rights (NPMHR), Kohima, Nagaland.

APDR, in the eastern part of the country, is the oldest of the surviving human rights organizations in India. APCLC, in the south, is perhaps the most active of all organizations in the country. CPDR represents the western part of the country. NPMHR is the only organization which has been able to gather evidence about the human rights condition in the northeast region, but primarily in Nagaland. which is populated entirely by tribals, and has also been subjected to a virtual "army rule" for the past forty years.

Governmental Organizations. I have also taken into consideration the governmental response, which is studied both in itself, and through the activities of two institutional agencies. These are:

1. Madhya Pradesh Human Rights Commission (MPHRC), Bhopal; and
2. National Human Rights Commission (NHRC), New Delhi.

MPHRC was established as a state level organization in 1992; and NHRC was established as a national body as recently as September 1993. The Indian government has finally responded to primarily international pressures, and created institutions to deal with human rights abuse in the country. In spite of fears that it is only a part of foreign policy, it has also helped raise human rights to a new level of political potency.

3. Methodology

In this study, I have employed a combination of different research techniques for data collection and analysis. These are documentary analysis, interviews, and observation.

Documentary Analysis

I have consulted books and articles to study the ideas of human rights in India. I have also made use of publications by organizations, including reports and pamphlets to study their understanding of the concept, as well as their activities and priorities.

Ideas of Human Rights. The events and circumstances relating to the development and growth of ideas of human rights can be found in various books, journals and United Nations publications. These are examined with reference to Indian history. The study focusses on events such as the early social and religious movements, and in more recent years, the national Emergency (June 1975 to March 1977), which have proved to be catalytic to the human rights movement in India. For studying the situation in the early part of the century and the first human rights organization in the country (established in 1936), I consulted documents (statements and letters by national leaders) in the Nehru Memorial Museum and Library, New Delhi.

Organizations. I have consulted Amnesty International documents at its archive at the Modern Record Library, University of Warwick, where all its public documents can be found. This also includes communications from its headquarters in London to national sections. The Indian organizations publish occasional reports and pamphlets; and some organizations have regular newsletters or journals. I collected these during a period of six months fieldwork in India, from October 1993 to March 1994. Most of the organizations also gave me access to their internal records, including copies of letters. These have been studied to gauge their nature, structure and activities.

Government. The government prepares documents relating to the promotion and implementation of human rights programmes, and reports to the UN about the human rights situation in the country. The government's response to Amnesty International is sent through the Indian High Commission in London. The High Commission also issues press releases, and publishes a monthly journal, *India Digest.* These provide the government's point of view.

Interviews

I have used the method of intensive, informal interviewing, or what Merton calls the method of "focused interview."[2] This is a flexible device for data collection.[3] I asked open-ended questions, and the interviews were discursive in character. The respondents had the opportunity to openly express what they believed or felt.

I interviewed current leaders, office bearers and members of Indian organizations, as well as some former members including the founders of organizations. Government officials in India and in the Indian High Commission in London were also interviewed.

Most of the respondents preferred to talk and react verbally, rather than give information in writing. This was especially true of government officials. some of whom also requested anonymity. In India, where time is usually not at a premium, people were inclined to talk at great length. I thus found the method of "focussed interview" to be of immense use in data collection.

The interviews were held mainly in respondents' houses; some were held in their offices; a few in tea-shops; and one was held during a two hour coach journey. Most of the interviews (34) have been recorded in 25 audio cassettes of 90 minutes each, totalling to about 37 hours of recording. These have been transcribed. The rest of the interviews were not tape recorded -- where the respondents so wished, or where impromptu discussions were held in informal settings.

Observation

I spent time in organizations' offices, observing how actual decisions were being made. I also attended formal and informal meetings of organizations as often as possible during the period of fieldwork (ten daily meetings of APDR; eight weekly meetings of PUDR; one weekly meeting of CPDR; one fortnightly meeting of PRO; a state level convention of APCLC; and a national executive committee meeting of PUCL). The knowledge gained in the process of observing organizations at work was used as a "scanner" to check the validity of some of the information I gathered through documentary evidence and interviews.

Thus, while secondary sources have been used to understand ideas of human rights, a combination of primary and secondary data has been used to analyze organizational activities and current issues and debates.

Assessment of Organizations and Issues

Assessment of Organizations. While different methods of information gathering have been used, the assessment of organizations involved the following steps: a) gathering information about them -- origins, nature and aims, and organizational structure -- and their programmes using various methods of data collection; b) examining these programmes to understand the ideas and strategies; c) clarification and verification of my understanding by dialogue with leaders and members of the organizations; d) re-examining the programmes; and e) moving towards generalization about each organization.

While each organization is studied on its own, they are also compared with each other at various levels -- for example, between Amnesty International, its Indian section and other Indian organizations, between national and regional organizations, and between governmental and non-governmental organizations. This has helped in reaching conclusions about the reasons for organizational success and effectiveness.

Assessment of Activities and Issues. An important aspect of this study is to look at the activities of the organizations. By looking at different "cases" (i.e., a particular incident highlighted by an organization, or a particular issue/campaign taken up), it has been possible to analyze and provide answers to such questions as: How do the organizations get their information? How do they verify the information? How do they decide to take up a case? What actions do they take? Who do they ask for help? Who are the victims? Who are the violators? etc.

4. Other Works

Some distinctions between this and other works need to be made at this stage. The study of human rights, though a relatively new phenomenon, is an increasingly well established area of policy and inquiry in the modern world. As Machan has pointed out, the recent attention to human rights was prompted by the UN Charter (1945).[4] In India, until the 1970s, established scholarship ignored the problem of human rights: it considered it "unworthy of being taken up as a major focus of study."[5] However, academic interest was aroused as a consequence of excesses committed during the Emergency. In spite of the fact that the study of human rights issues in India is in its infancy, the literature in the area is already diverse.

Most of the scholarship has been done within a constitutional-legal framework. These works focus on the inadequacy of the Indian constitution and other laws in protecting people's rights.[6] Similar in nature are works that look at rights issues in relation to the state and the process of democratization, focussing on macro aspects, such as the role of the legislature and political parties.[7] The present work will go beyond these concerns in two ways: by highlighting the response of rights organizations to what they call "draconian laws," and how these laws affect the people at large. It will also take the discourse further by examining local conditions in which abuse takes place and organizations operate.

Works by scholar-activists,[8] usually focus on the dilemmas of the human rights movement: What constitutes human rights? Is a Western notion of human rights adequate in India? How should the state be viewed from a human rights perspective? One significant issue is the question of private violence. This study

will analyze these debates in order to understand how they shape the priorities of the movement.

Some scholars have also examined rights organizations. For example, Rubin[9] has studied one national organization (PUCL); Sitharamam[10] has studied the human rights movement in Andhra Pradesh with reference to organizations in that state; and Adzic[11] has outlined the history of the movement as a whole in an unpublished paper. These are particularly important studies as far as this work is concerned as their focus partially coincides with my own. The present work will complement these studies by providing an analysis of the entire spectrum of human rights organizations in India. Additionally, as the other works were written prior to the establishment of two governmental organizations, they have not considered the significance of governmental initiatives. Further, none of the above mentioned works have considered the role of Amnesty International in India.

Finally, there a substantial amount of literature generated by the organizations in the form of pamphlets, booklets and reports, focussing on various incidents of human rights abuse. Some of the literature has been brought together by Desai in three volumes.[12] There is also some literature produced by government agencies. Its focus has been on governmental efforts and "achievements" in the area of human rights,[13] and on the abuses by armed opposition groups in Punjab, Jammu and Kashmir, the Northeast, and by Marxist-Leninist groups in Bihar and Andhra Pradesh. Writings by activists often attack the government and tend to be one-sided. This study will assess governmental efforts and its institutional mechanisms.

5. Human Rights: Development and Debates

The term "human rights" has been made familiar by its use in today's international political discourse, and the prominence accorded to it by the Western media. However, its meaning is not always apparent or indisputable.

The term "rights" has been a source of problem for philosophers and political scientists, and they have produced varied theories of rights.[14] Without going into

abstract philosophical debates, it would suffice to say to that a right is something to which we are entitled. This word in ordinary English usage not only means "a lawful entitlement"; it also means a "just entitlement."[15]

"Human rights" is an even more complex term. The idea of human rights or the rights of the individual is commonly associated with the various forms of liberal individualism as they developed in the West, particularly in Britain, France and America in the seventeenth and eighteenth centuries.[16] The French Declaration of the Rights of Man of 1789 is often taken as a point of departure in discussions about human rights to trace the origin of some of the ideas which it proclaimed. It proclaimed that "all men are born free and equal"; it set out a number of individual rights; and held the state responsible for the "natural and imprescriptible rights of man." This view of the role of the state has much in common with the American Declaration of Independence of 4 July 1776. However, much before this, certain rights and liberties had already been established in England. The Magna Carta of 1215 guaranteed freedom from imprisonment, dispossession of property, prosecution or exile "unless by the lawful judgement of his peers or by the law of the land." The Bill of Rights of 1689 assured the supremacy of the Parliament: the principle of supremacy of the law has never since been held in doubt.[17]

The human rights movement as we know it today began in order to check state violation of constitutional rights or norms and make the state more accountable. More specifically, it is the result of the experiences of the second world war. At the global level, rights norms have been institutionalized in the UN declarations and conventions. The Charter of the United Nations (1945) contains seven references to the promotion of human rights. The first is in the Preamble:

> We the People of the United Nations, determined . . . to reaffirm faith in the fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, . . . have resolved to combine our efforts to accomplish these aims.[18]

The Universal Declaration of Human Rights is thus a historic document propounding standards of rights of all members of the human family, as a

foundation of freedom, justice and peace in the world. Articles 1 and 2 state the general principles; articles 3 to 21 set forth the civil and political rights; articles 22-27 enumerate the economic, social and cultural rights; and articles 28-30 refer to collective rights.

There seems to be international political consensus on the list of rights in the Universal Declaration of Human Rights, which is explicitly endorsed by all nations. However, there is a lack of consensus among philosophers, political scientists and rights scholars on the philosophy, origins or justifications of the ideas of human rights. Other questions that occupy them relate to the universality of human rights and to the status of social, economic and cultural rights.[19] Thus, debates about human rights have been surrounded by these questions: Is human rights a modern phenomenon or has it existed since antiquity? What are the justifications for human rights? Are human rights universal? And which rights are more important? I will now discuss these concerns briefly.

Nature of Human Rights

While most authors believe that human rights are vital, they disagree about the nature and source of authority for human rights. What is the nature of human rights? The contending views are that they are either moral rights, that is, they exist independently of any legal or institutional rules; or that they are legal rights, that is, they can only be established by a recognized authority.

The idea of human rights seems to have a close relationship with the idea of moral rights. Cranston has argued that human rights are a form of moral rights. and they differ from other moral rights in being the "rights of all people at all time in all situations."[20] Milne argues that they are universal moral rights. The idea appears to be a rationally defensible one, not as an ideal but as a "minimum standard" which is applicable to all cultures and civilizations, irrespective of differences between them.[21] Other scholars, however, highlight and emphasize the aspect of human rights as a legal right, based on the rule of the law.[22] They argue that without a legal status, rights cannot be enforced. In this debate it is important to

note that where human rights are upheld by laws, they can be both moral as well as legal rights.

A recent study by Martin analyzes this debate, and contends that "our ordinary idea of human rights is a hybrid . . . It consists of two principal elements: one of them moral and the other legal."[23] He further says that since human rights claims are addressed to governments, governmental practices and recognition must form an important part of the question. It makes a vast difference: "without such recognition and maintenance, whatever was said to be justified on moral grounds would not be a proper human right."[24] Thus this view appears to synthesize the debate about the nature of human rights; it also adds a new dimension of government recognition and responsibility as an essential element of rights. This is perhaps a pragmatic view of the current rights situation.

Most of the organizations in India see questions of human rights as necessarily having a moral slant; yet as they seek solutions to various kinds of abuses, they are often forced to recognize the paramount importance of the role of governmental agencies.

Justification of Human Rights

The question of the justification of human rights is perhaps more fundamental: How does being human gives rise to rights? According to what Donnelly calls "the scientific approach," humans have basic needs; according to a moral or philosophical approach, human rights are necessary for human dignity.[25] Some of the sources of legitimacy identified are religion or morality, natural law, and positive law.

Those who see religion as the source of human rights ground them in the principle of divine donation;[26] they contend that human rights stems from a higher law than the state. Natural law, first elaborated in the ancient period, modified by medieval philosophers, and later espoused by political thinkers like Locke see human rights as derived from the principles of the law of nature. The positivists

contend that all authority stems from what the state and officials have prescribed.[27]

There is also the Marxist approach. According to this approach, there neither were individual rights in primitive societies, nor would they be necessary in the communist state. It therefore sees the modern conception of human rights as "basically an ideological rationalization of the capitalist society."[28] It however, concedes that in the transitional state of socialism, individual rights can be guaranteed by the state, but their exercise is conditional upon the fulfilment of obligations to the state and society. "A right is an opportunity guaranteed by the state to enjoy the social benefits and values existing in the given society."[29]

There is a plethora of theories based on natural rights, on the value of utility, on concepts of justice, on the nature of the state, on dignity, on equality, and on theories of development.[30] As Shestack remarks, one theory, though, stands out as having "particular appeal to human rights activists."[31] This is Edmund Cahn's theory of justice. His essential argument is that "although there may be universal a priori truths concerning justice from which rights or norms may be deduced, it is better to approach justice from its negative rather than its affirmative side. In other words, it is much easier to identify injustice from experience and observation than it is to identify justice . . . justice is the active process of remedying or preventing what arouses the sense of injustice."[32] The apparent advantage of this approach is that it deals with the situations in a functioning society, and has the potential to produce action. As will be evident later, this theory seems to explain the "reactive" nature of organizations in India.

Building theories around human rights is seen by some scholars as an unnecessary intellectual exercise. Thus Winfield argues that in our times the principle of human rights is seen as self-evident truth, that rights cannot be derived either from practice or from nature, and that they must exist independently: "Rights must be their own ground and thus exist for their own sake and no other . . . *they do not have foundations*. The problem with...rights theory is that it attempts to give rights foundations."[33] Some other scholars go even further. Husak, for example, argues that the contention that all humans share rights is highly problematic, and that

there are in fact no human rights: no right is shared by each and every human being, and thus the search for a foundation is misguided, even if noble.[34]

Perhaps human rights as a discipline remains "theory-poor." As the editors of the prestigious *Human Rights Quarterly* have stated: "The search has barely begun for theory . . . Indeed, it is probably premature to look for theory with explanatory or predictive power until we achieve better systems of descriptive reporting."[35] The task then, for organizations and scholars, seems to be of trying to understand the various implications of human rights before attempting to build any theories. It is perchance just as well that theory building is not a preoccupation of the rights activists in India, though this is lamented by some.[36]

Are Human Rights Universal?

Some scholars such as Robertson and Cranston have argued that ideas of human rights have existed since antiquity in different cultures and civilizations in some form or other.[37] The universality and ancient tradition of the notion of rights is also sought to be portrayed in the *Birthright of Man,* published by UNESCO in 1969, which is a "collection of texts gleaned from different cultural traditions and periods of history."[38] Thus scholars argue that human rights is a "twentieth century name for what has traditionally been known as natural rights."[39]

Other scholars are sceptical of the ancient traditions of human rights. Szabo points out that "in that world it was considered to be perfectly natural (and therefore in conformity with natural law) that there should exist radical social differences which exclude *ab avo* [from ancient times] the central idea of human rights: that of the equality of men."[40] Henekin, too, sees some difficulties in tracing the ideas of human rights to antiquity. According to him, "The origins and ancestry of ideas are rarely single or simple, or readily disentangled. Many can claim patent to the ideas of human rights, with some warrant, yet all claims include some exaggeration, for the various elements of human rights have different ancestry, and attempts to correlate contemporary with ancient concepts court anachronism and other distortions."[41]

The international declaration and instruments have played a major role in making the notion of human rights a universal one. It is not surprising that in current rights discourse, it is often assumed that human rights exist and they are universal. In a recent work, Renteln argues that the presumption of universality is a fallacy. According to her, "What typifies this way of thinking is the belief that human rights exist independent of culture, ideology and value systems."[42] It certainly is the case that human rights are "defined differently in different regions and even within single countries,"[43] and that for the present, universality is a myth.[44]

Further, as Pollis points out, disagreements and conflicting perceptions about what constitutes a violation are also common. This is frequently due to "real differences in definition of the situation." He argues that "universally valid criteria for determining the occurrence of human rights violations will be extremely difficult to achieve."[45] They are conceived differently due to differing philosophical, cultural and religious conceptions, and varying emphasis on issues such as peace and development, and the prioritizing of rights.[46] This leads us to the next question: are some rights more important than others?

Which Rights are More Important?

It is often contended that one set of rights are more important than others. A distinction is often made between a) civil and political rights, b) economic, social and cultural rights, c) collective rights.[47] Civil and political rights include the right to life, liberty, freedom from slavery, torture and arbitrary arrest, right to a fair trial, freedom of opinion and expression, of assembly and association, of conscience and religion, the right to free elections and participation in public affairs, etc. Economic, social and cultural rights include the right to work for a just reward, the right to education, the right to participation in the cultural life of a community, etc. Collective rights include the right of groups from discrimination and of nations to self-determination. Civil and political rights are also referred to as "first generation rights"; economic and social rights as "second generation rights". At present, the term "third generation rights" has come into use: this refers to the right to development and solidarity.[48]

One standard form of argument is that there are three worlds: the Western, which emphasizes civil and political rights; the Socialist, which emphasizes the economic and social rights, and the Third World, which emphasizes the right to self-determination and the right to economic development. Further, both Socialist and Third World views are group oriented rather than individual oriented. Thus the problems of human rights are viewed in different ways by emphasizing different category of rights.

Another way to approach this debate would be to ask: What would life be in the absence of any one kind of right? One answer is that all categories are essential for the protection of human dignity; all sets can also be seen to protect the same values.[49] This is a favoured approach of intergovernmental bodies like the UN, and is evident in the Declaration adopted at the UN-sponsored World Conference on Human Rights in Vienna in June 1993.[50] This view is echoed by Saksena, who says that any effort to prioritize rights "amounts to callous disregard of the truth that the various components of internationally recognized human rights constitute one indivisible whole."[51] The practical reality, however, is that some rights do take precedence over others. This will be clear from my description of the way in which organizations grapple with an array of issues confronting them.

6. Structure of the Thesis

This work is divided into eight chapters. In this chapter, I have set out the aims and scope of the study, outlined the methodology of my research, and highlighted some of the debates in the rights discourse. Chapter 2 examines the development of the ideas of human rights in India, with reference to social and religious movements in ancient and medieval periods, and the contributions of some national leaders (Gandhi, Nehru and Ambedkar) in raising human rights consciousness. Chapter 3 looks at the role of Amnesty International and its Indian section; chapters 4 and 5 examine the national and regional organizations respectively; chapter 6 surveys government response to allegations of abuse, and the events and circumstances leading to the establishment of two human rights bodies at regional and national levels, and their roles. Chapter 7 focusses on major issues pertaining to and confronting the human rights movement in India:

questions such as caste-oriented action and response to private violence (as opposed to state violence) are examined. Chapter 8 is the concluding chapter; it draws broad generalizations about the human rights movement in India and suggests further research.

NOTES

1. Amnesty published its first report on India in 1974, and has since published many reports dealing with specific aspects of human rights concerns. Its recent report caused a public uproar, forcing the government to "officially" react to it. This finally led to the Prime Minister's formal announcement in the Parliament that the government would establish a national human rights commission to investigate reports of abuses. See Amnesty International, *India. Torture, Rape and Death in Custody,* London: Amnesty International Publications, 1992. AI Index: ASA 20/06/92.

2. Robert K. Merton, Marjorie Fiske and Patricia L. Kendall, *The Focused Interview: A Manual of Problems and Procedures,* 2nd edition, New York: The Free Press, 1990, pp. 54-55.

3. Gerald A. Adams and Jay D. Schvaneveldt, *Understanding Research Methods,* New York: Longman, 1985, pp. 201-2.

4. Tibor R. Machan, "Some Recent Work in Human Rights Theory," in *American Philosophical Quarterly,* vol. 17, no. 2, April 1980, pp. 103-115.

5. A. R. Desai, editor, *Violation of Democratic Rights in India,* Bombay: Popular Prakashan, 1986, p. x.

6. See H. O. Agarwal, *Implementation of Human Rights Covenants: With Special Reference to India,* Allahabad: Kitab Mahal, 1983; T. S. Batra, *Human Rights: A Critique,* New Delhi: Metropolitan Book Company, 1979; V. R. Krishna Iyer, *Human Rights and the Law,* Indore: Vedpal Wadhwa, 1984; V. R. Krishna Iyer, *Human Rights and Inhuman Wrongs,* New Delhi: B. R. Publishing, 1990. Subhash C. Kashyap, *Human Rights and Parliament,* New Delhi: Metropolitan, 1982.

7. See Anjan Ghosh, "Civil Liberties and Uncivil State," in *Seminar,* no. 355, March 1989, pp. 34-37; Rajni Kothari, *State Against Democracy: In Search of Humane Governance,* Delhi: Ajanta Books, 1988; Ashwini Kumar Ray, "Civil Rights Movement and Social Struggle in India," in *Economic and Political Weekly,* vol. 21, no. 28 12 July 1986, pp. 1202-1205.

8. Smitu Kothari and Harsh Sethi, editors, *Rethinking Human Rights: Challenges for Theory and Action,* New York: New Horizons Press and Delhi: Lokayan, 1989; Harsh Sethi, "Confronting Private Violence," in *Seminar,* no. 405, May 1993, pp. 24-28; Randhir Singh, "Terrorism, State Terrorism and Democratic Rights," in *Economic and Political Weekly,* vol. 27, no. 6, 8 February 1992, pp. 279-89.

9. Barnett R. Rubin, "The Civil Liberties Movement in India: New Approaches to the State and Social Change," in *Asian Survey,* vol 27, no. 3, March 1987, pp. 371-94.

10. K. Sitharamam, "Civil Rights Movement in India." Ph.D. Thesis, Centre for Social Studies, South Gujarat University, Surat, 1993. Unpublished.

11. Adzic, Andrew, "Modern Civil Liberties and Democratic Rights Organizations in India," 1992. Unpublished paper.

12. See A. R. Desai, op. cit.; A. R. Desai, editor, *Repression and Resistance in India: Violation of Democratic Rights of the Working Class, Rural Poor, Adivasis and Dalits,* Bombay: Popular Prakashan, 1990; A. R. Desai, editor, *Expanding Governmental Lawlessness and Organized Struggles: Violation of Democratic Rights of the Minorities, Women, Slum Dwellers, Press and Some Other Violations,* Bombay: Popular Prakashan, 1991.

13. Government of India, *India Marches Towards Greater Attainment of Human Rights,* New Delhi: Ministry of Welfare, 1988; Government of India, *Human Rights: A Reaffirmation,* New Delhi: Ministry of Information and Broadcasting, 1992.

14. For various viewpoints, see Rex Martin, *A System of Rights,* Oxford: Clarendon Press, 1993, pp. 73-74; A. J. M. Milne, *Human Rights and Human Diversity: An Essay in the Philosophy of Human Rights,* New York: State University of New York Press, 1986, pp. 89-104; David Selby, *Human Rights,* Cambridge: Cambridge University Press, 1987, pp. 6-8; Maurice Cranston, *What Are Human Rights?* London: Bodley Head, 1973, pp. 19-23; Richard E. Flathman, *The Practice of Rights,* Cambridge: Cambridge University Press, 1976, pp. 33-38.

15. David Selby, op. cit., p. 7; Maurice Cranston, op. cit., 1973, p. 19.

16. Richard E. Flathman, op. cit., pp. 2-3.

17. Ibid.

18. See Articles 1, 55, 56, 62, 68 and 75 of the UN Charter for references to human rights.

19. Jack Donnelly, *International Human Rights,* Colorado: Westview Press, 1993, p. 25.

20. Maurice Cranston, *What Are Human Rights?* op. cit., pp. 5-7, 21-25.

21. Milne, op. cit., pp. 124-161.

22. L. J. Macfarlane, *The Theory and Practice of Human Rights,* London: Maurice Temple Smith, 1985, pp. 13-16.

23. Rex Martin, op. cit., p. 97.

24. Ibid., pp. 87-92.

25. Jack Donnelly, op. cit., p. 21.

26. Ibid.

27. Jerome J. Shestack, "The Jurisprudence of Human Rights," in *Human Rights in International Law: Legal and Policy Issues,* edited by Theodor Meron, vol. 1, Oxford: Clarendon Press, 1984, pp. 75-83.

28. Bikhu Parekh "The Modern Conception of Right and its Marxist Critique." in *The Right to be Human,* edited by Upendra Baxi, Geeti Sen and Jeanette Fernandes, New Delhi: Lancer International in association with India International Centre, 1987, pp. 1-22.

29. Tibor R. Machan, op. cit., p.105.

30. For an overview, see Jerome J. Shestack, op. cit., pp. 85-101. For a fairly complete survey of recent philosophical discussions of human rights, see Tibor R. Machan, op. cit.

31. Jerome J. Shestack, op. cit., p. 93.

32. Ibid., pp. 93-94.

33. Richard Dien Winfield, "The Injustice of Human Rights," in *Philosophy and Social Criticism,* vol. 9, 1982, pp. 86.

34. Douglas N. Husak, "Why There Are No Human Rights," in *Social Theory and Practice,* vol. 10, no. 2, Summer 1984, pp. 125-141.

35. Richard P. Claude and Thomas B. Jabine, "Editors' Introduction," in *Human Rights Quarterly,* vol 8, no. 4, November 1986, p. 555.

36. See Rajni Kothari, "Human Rights -- A Movement in Search of a Theory," *Rethinking Human Rights: Challenges for Theory and Action,* edited by Smitu Kothari and Harsh Sethi, New York: New Horizons Press and Delhi: Lokayan, 1989, pp. 19-29.

37. For example, Robertson gives examples from ancient Iran and Egypt. See A. H. Robertson, *Human Rights in the World: An Introduction to the International Protection of Human Rights,* 2nd edition, Manchester: Manchester University Press, 1982, p. 8. Cranston gives the example of ancient Rome and Greece where "citizens of certain Greek states enjoyed such rights as *isogoria,* or equal freedom of speech, and *isonomia,* or equality before the law, which are prominent among the rights claimed in the modern world." Maurice Cranston, *Human Rights To-day,* London: Ampersand Books, 1962, pp. 9, 7-21.

38. United Nations Educational, Scientific and Cultural Organization (UNESCO), *Birthright of Man,* Paris: UNESCO, 1969.

39. Cranston, *Human Rights To-day,* op. cit., pp. 7-21.

40. Imre Szabo, "Historical Foundations of Human Rights and Subsequent Developments," in *International Dimensions of Human Rights,* Karel Vasak, general editor, revised and edited for the English edition by Philip Alston, vol. 1, Connecticut: Greenwood Press, 1982, p. 12.

41. Alice H. Henkin, editor, *Human Dignity: the Internationalization of Human Rights,* New York: Asper Institute for Humanistic Studies, 1979, p. 4.

42. Alison Dundes Renteln, *International Human Rights: Universalism Versus Relativism,* California: Sage Publications, 1990, p. 12.

43. Art Blaser, "Assessing Human Rights: The NGO Contribution," in *Global Human Rights: Public Policies, Comparative Measures and NGO Strategies,* edited by Ved P. Nanda, James R. Scarritt and George W. Shepherd, Jr., Boulder: Westview Press Inc., 1981, pp. 263.

44. Antonio Cassese, *Human Rights in a Changing World,* Cambridge: Polity Press, 1994, p. 51.

45. Nicholas P. Pollis, "Conformity, Compliance and Human Rights," in *Human Rights Quarterly,* vol. 3, no. 1, February 1981, p. 93.

46. Antonio Cassese, op. cit., pp. 51-59.

47. See R. J. Vincent, *Human Rights and International Relations,* New York: Cambridge University Press, 1986, pp. 11-12.

48. For a discussion of collective rights and third generation rights, see Rodolfo Stavenhagen, "Universal Human Rights and the Cultures of Indigenous Peoples and Other Ethnic Groups: The Critical Frontier of the 1990s," in *Human Rights in Perspective: A Global Assessment,* edited by A. Eide and B. Hagtuet, Oxford: Basil Blackwell, 1992, pp. 135-151.

49. Jack Donnelly, op. cit., pp. 27-28.

50. See United Nations, *World Conference on Human Rights: The Vienna Declaration and Programme of Action June 1993,* New York: Department of Public Information, 1993.

51. K. P. Saksena, "Foreword -- Human Rights and Development: An Asian Perspective," in *Human Rights and Development,* edited by David P. Forsythe, Basingstoke: The Macmillan Press Ltd., 1989, pp. ix.

2

Historical Background

Even though the idea of individual human rights is commonly associated with the various forms of liberal individualism as they developed in the West -- particularly in Britain, France and America -- in the seventeenth and eighteenth centuries,[1] it is often argued by scholars like Robertson that "human rights have been cherished through the centuries in many lands . . . it is always apparent in the endeavour to protect the individual against the abuse of power by the monarch, the tyrant or the state."[2] It is thus important to look at the historical development of the ideas of human rights for "the attitudes and values of nations are as much conditioned by history as by modern political theory or ideology."[3] As some of the major rights issues are inseparable from religious and cultural traditions, this chapter examines the development of the idea of human rights in India from a historical perspective.

In looking at the historical development of the ideas of human rights in India, sections 1 of this chapter focusses on the main tendencies of the Hindu, Buddhist and Muslim traditions. Section 2 examines the influence of Western ideas in the context of British rule in India, and the major factors that led to the emergence of notions of social equality and freedom. The next section outlines the phases of the national freedom movement in relation to growth of these ideas. The contradictory ideologies of two leading national figures, Gandhi, the Father of the Nation, and Ambedkar, the architect of the Indian constitution, are examined. The nature and contribution of the first human rights organization in India, founded by Jawaharlal Nehru, a leader of the Congress party (and later, independent India's first prime minister), is discussed in detail. The final section, briefly looks at some of the organizations in post-Independent India till the end of the 1960s.

1. Major Religious Traditions

India is a land of many cultures and religious traditions and has significant minority groups, but it would be fair to say that the Indian society is based largely on Hindu patterns of thought and ways of life. Buddhism emerged as an important heterodox tradition in ancient India and made an impact on Hinduism -- but its current relevance lies in the acceptance of some of its ideals by leaders of modern India. For example, Gandhi, who led the Indian freedom movement, made *ahimsa* (non-violence) an integral part of his life and work; and Ambedkar, a champion of the rights of the low castes and architect of the Indian constitution, converted to Buddhism towards the end of his life. The Islamic tradition came to India about eight hundred years ago. Today, Muslims constitute the largest and most significant minority in the country.

The Hindu Tradition

Hinduism, within which there exists a wide diversity of practice, emerged in India around 3,500 years ago.[4] It is characterized by continuity: new ways of thought and behaviour do not replace the old ways, which persist in slightly modified forms.[5]

Scholars of Hinduism have noted that to understand the notion of rights in actual social institutions, it is useful to focus on the law books and historical sources rather than metaphysical aspects. Among the law books, Manu's *Manava Dharma Sutra* (The Treatise on Human Duties), compiled between 200 BC and 200 AD, and Kautilya's *Arthashastra* (The Treatise on Political Economy), written in third century BC stands out as being the most popular.[6] These are also relevant in the present context for many of the ideas contained there have survived to the present day.[7]

Two characteristics of Hindu tradition stand out and are relevant here: the caste system and the concept of *dharma*. The caste system came about as the ancient Hindu society and institutions were concerned with "a purposeful ordering of life" or "order in the universe" -- both cosmic and social. While cosmic order was

characterized by individualism and tolerance in the pursuit of spiritual advancement, social order was characterized by conformism and social rigidity.[8] This obsession with order led to organized groups, which crystallized into caste system by about 200 BC and 200 AD (or the time when Manu's wrote his Code). The caste system seems wholly incompatible with the idea of human rights,[9] and is often seen as the chief cause of human rights abuse in India.

> The Indian society suffers from the vilest and the most persistent form of discrimination known to mankind . . . The caste system, the most ingenious social structure of social deprivation and discrimination, has persisted for the last five thousand years and more. The Vedas hint at it, the Bhagvad Gita talks about it, the Ramayana and Mahabharata present its agonising illustrations, the Manu Smruti (*sic*) justifies it.[10]

The caste system refers to the fact that the society was divided into four castes or *varnas:* the *brahmins* or priestly caste; the *kshatriyas* or warrior caste; the *vaisyas* or trading caste; and the *shudras* or serving caste. A later development was the category of outcastes or the Untouchables.[11] An important feature of the caste system is that it recognizes fundamental differences between members of different castes. Thus they cannot be governed by a single norm. Each caste must do its duty or *dharma.*[12] Individual salvation or *moksha* lies in the balanced pursuit of *dharma* (laws of the social order), *artha* (economic activity and prosperity), and *kama* (pleasure). Dharma is the most important of these activities: it refers to duties of each individual in accordance with his or her caste and age as articulated in the theory of *varnashrama dharma.*[13]

Religious texts such as the *Bhagvad Gita* tell people to perform their caste duties, and that perfection and moksha can only be attained by those who do their duty; indeed, it advises that it is better to do one's own duty poorly than doing another's duty well.[14]

As the rules of dharma were formulated by the brahmins, they expounded the superiority of their caste and formulated a system of social hierarchy where social, economic and legal privileges increased or decreased according to one's caste. Rights were extended primarily to the upper castes; the shudras and the Untouchables, at the lowest rung of the caste system had absolutely no rights.[15]

One implication was that there was no equality before the law as far as individuals were concerned. Judicial processes had to take the caste of the offender into consideration. There was an "extraordinary lack of universality" in Hindu thought. "To be moral, for Manu, is to particularize -- to ask who did what, to whom and when." Ramanujan quotes Manu: "A Kshatriya, having defamed a Brahmin, shall be fined one hundred (panas); a Vaisya one hundred and fifty; a Sudra shall suffer corporal punishment."[16] Thus the codes were not universal: they were different for different castes.

The varna dharma theory had an in-built system of caste discrimination. For example, only the three upper castes were entitled to education. In reality only the brahmins and aristocracy received any formal education as the content of the education kept the non-brahmins away. And the shudras had no right to education anyway -- they were barred from reading the *Vedas* or any other holy scriptures. Other kinds of rights such as of free thought and expression or to assembly were non-existent.[17]

As dharma gradually became the most important and significant concept in the Hindu tradition, it was elevated to divine status, higher than that of the king or the government. But dharma basically meant maintenance of varna dharma: it enjoined the king, state or government to uphold and maintain the caste system, and the people not to deviate from it. If there was deviation from dharma, the state was supposed to enforce it at any cost -- including the use of *danda* (a rod or a stick, signifying punishment). In both, Manu and Kautilya's political system, *dandaniti* (the policy of using danda) was primary.[18]

While the scholars referred to above point out that Manu detailed the duties of individuals according to their caste positions, and Kautilya's pragmatic view of the purpose of government and reinforcement of the caste system had little use for individual human rights, some authors have advanced the view that ancient Hindu tradition was sympathetic to the ideas of human rights.

They point out that references occur as early as in the *Rig Veda* to the three rights of *tana* (body), *skridhi* (dwelling place) and *jibasi* (livelihood); that Kautilya's *Arthashastra,* not only affirmed and elaborated the civil and legal rights first

formulated by Manu but also added a number of economic rights; that the epic *Mahabharata* described the rights of the individual in a political state; that the concept of dharma covered the basic principles involved in the theory of rights, duties and freedoms; and further that the policy of dandaniti was to enforce legal rights.[19] These authors, however, fail to demonstrate that a system of rights was either a prevalent or accepted norm in the ancient Hindu society. What was perhaps more relevant to human rights was the existence of certain heterodox traditions.

Brahminical orthodoxy inherent in the Hindu tradition was opposed by heterodox traditions. These traditions -- which can be divided into three broad trends -- drew their following mostly from the lower castes, advocated the equality of all human beings, and encouraged the acceptance of a higher status for women.[20] The first trend was the offer of alternate religions like Buddhism and Jainism in the fifth century BC.[21] The second trend was the offer of non-religious alternatives like that of the Lokayatas, who denied any ultimate meaning for human existence; the Charavakas, who lived a life in pursuit of pleasure; or the Ajivakas, who lived a life of asceticism. The third trend was of reformist groups like the Bhakti movements which propagated devotion and denied the caste system. Chaitanya (1485-1533), a Hindu revivalist in Bengal, can be seen as a representative of the Bhakti movement.[22] Though he rejected the caste system, his teaching was directed more towards piety and mysticism rather than any conceptions of human rights.[23]

Though these aspects are perhaps relevant to human rights in as much as they present an alternative way of life, it seems clear nonetheless that in the overall framework of Hindu society, emphasis was on duties, and access to rights was limited to the privileged few of the upper castes.

The Buddhist Tradition

Buddhism originated during a period of political awareness and broke away from the orthodox brahminical tradition. It can be seen as political philosophy, opposed to brahminical views which were inimical to the "tribal democratic institutions" of

the time; and Buddha's "middle path" can be seen essentially as a technique to protect the tribal traditions.[24]

Its earliest supporters came from the republican tribes of north India. Soon it became popular amongst the commercial classes with their preferred emphasis on contractual arrangements. Unlike the Hindu tradition, according to which government was formed due to divine intervention (and caste too had divine origins), according to the Buddhist tradition, government was formed by the people themselves. The republican background -- especially the absence of monarchical authoritarianism and the idea of divinity in the political sphere -- emphasized rights of the individual in the society.[25]

Buddhist tradition protested against the caste system and embraced the concept that all human beings are equal. It was in favour of equality before the law, and sought to punish offences without reference to caste immunities or privileges. It also showed greater liberality towards women.[26]

The Buddhist *sanghas* (community of monks or monasteries) were democratic institutions. There was an elaborate system of individual rights and duties within the sanghas, such as right to free speech. But there were duties too -- political, social and economic. In fact, it would be correct to say that there was more stress on duties than on rights.[27]

Buddhism's greatest contribution to Indian tradition was the concept of *ahimsa* (non-violence), which recognized the most fundamental human right: the right to life -- though it is not of as extreme or absolute form as that of the Jain tradition.[28] As already pointed out, in the twentieth century, Gandhi borrowed this concept and in making it a central part of his philosophy, popularized it. Ambedkar, an arch-rival and critic of Gandhi, embraced this religion as a way out of the Hindu caste system.

The Muslim Tradition

The Muslim tradition came to India following the Arab conquest of Sind in the eighth century. Muslim rule was consolidated over the next two centuries and lasted well into the eighteenth century.[29] Today Muslims constitute the largest religious group after the Hindus.

Its codes and principles are embodied in the *Quran,* the *Sunna,* the *Hadith*, and the *Shariya.* In the ideal-typical sense, its scriptures and law books may be said to contain some tenets supportive of rights of the individuals such as right to life, to dignity, to justice, to freedom, to equality, to privacy and other rights. But these rights are recognized more as legal rights than as "human rights" belonging to all humans as "natural due." According to this tradition, human existence is not sufficient condition for rights, but submission to the Creator, and obedience to the government as well. The idea of rights is applicable to God, rather than to men who have only duties (*farud*).[30]

The tradition of Islam was founded on a non-hierarchical world-view, but by the time it came to India, the Muslim population was stratified into various classes. It soon absorbed some of the structural and cultural characteristics of the Hindu society, including elements of the caste system.[31]

Islamic holism or notions of equality are based on the unity of the Muslim *umma,* the collectivity of the faithful. The tradition speaks of a nation of believers, the *millat*. The elements of equality or egalitarianism are only meaningful within this concept. Thus, a sharp line is drawn between the community of believers and others. "A society in which the latter have a preponderance could under some circumstances be declared *Dar-ul-harb,* or a war zone, antithetical to *Dar-ul-Islam,* or the land of Islam. *Jihad* or holy war against such a society is religiously sanctioned."[32] In a society ruled by the Muslims, the *jazia* (a tax for non-believers) may be imposed on them.[33]

Islam is a proselytizing both in the religious and cultural sphere. The *ulemas* have a dominant role to play in the Muslim world as "religion, politics and society are united into one single principle." In India, during the period of Muslim rule, this

tradition was perpetuated on orthodox lines through the administrative organization, financial policies and machineries of law and justice. For example. Muslims held all the important positions of *qazis* (judges), *muftis* (preachers). *faujdars* (district administrators), and they held all political power. During a large part of the Muslim rule in India, persons of other religions, especially Hindus, had to pay the *jazia* tax. [34]

Just as the Bhakti movement tried to reform Hinduism, the Sufi movement made an attempt to reform Islam -- again with little success. It preached the universal brotherhood of man and denounced the narrow sectarianism of priests. Just as Ashoka (third century BC) is taken as an example of a just and noble king, exemplifying the best of Hindu and Buddhist traditions, so among the Muslim rulers, it is Akbar (1526-1605). He sought to remove the political and religious discrimination from which the Hindus suffered. He also tried to introduce a new religion, *Din-e-ilahi* (combining some of the teachings of both Hinduism and Islam), which was not very popular and was forgotten after his death.[35]

With the coming of the British, the Muslims gradually lost all political power. One of the consequences of this was that there was a decline in whatever liberal tendencies there were. As Yogendra Singh has noted, "The emergence of the orthodox cultural patterns dates back to the eighteenth century, soon after the decline of the Muslim power started."[36] Later, this tendency led to fear and suspicion which was accentuated by Hindu communalism and the exhortations of nationalist leaders like Tilak, Lajpat Rai and Gandhi who used Hindu symbolism. This finally culminated in the creation of Pakistan.[37] From a human rights point of view, it is important to note that the mistrust and insularity between Hinduism and Muslim tradition still continues and is a source of many human tragedies, including communal riots which have become a common feature of Indian society.

2. Western Influence

India's interaction with Western ideas first began through contact with Europe in the late fifteenth century, but as the British consolidated their power in the early

eighteenth century and established British rule in India for about two hundred years, the Western impact (at least up to national independence in 1947) can be said to be primarily British.[38] The spread of liberal Western ideas was mainly through modern education. These ideas were further embedded through civil and judicial administration.

There was change in the organizational structure of education. Unlike in the Hindu tradition, where the *guru* (teacher) was a brahmin, modern education was imparted by teachers appointed on the basis of educational record. The nature and literary content of Western education was both modernizing and liberal. Drawn from the literature of the European Renaissance, Reformation and Enlightenment, it enabled Indians to learn of struggles for rights in other parts of the world.

> John Stuart Mill's essay "On Liberty" soon after its publication became a text in Indian colleges. Indians came to know about Magna Carta, and the struggle for liberty and equality in Europe and America.[39]

Western influence was reinforced by the indigenous literary tradition, first in Bengal and later, in other parts of the country. This created a medium for the transmission of Western values to the Indian people.[40]

The integration of the Western values and ideologies among the members of the new educated class also contributed to the rise of social and cultural reformation movements in the eighteenth and nineteenth centuries. These were reform movements within Hinduism largely due to the encounter with Western individualistic values. Vivekananda (1863-1902), founder of Ramakrishna Movement -- without denouncing Manu -- advocated equality on the basis of *Vedanta,* arguing that the essence of all humans is divine. Raja Rammohan Roy (1772-1833), founder of Brahama Samaj Movement, denounced the caste system, and advocated equality of all individuals basing his arguments on the revealed texts of Hinduism, the *Vedas* and *Upnishads,* as opposed to the Code of Manu which was based on tradition. These movements advocated the eradication of certain Hindu social customs such as *sati* (widow immolation), female infanticide and child marriage. Even though these movements were localized, their importance in the context of rights trends lies in the fact that they made an impact on British policy makers.[41]

The British also sought to extend their version of social rights in India by introducing legal measures, particularly before the British government took over the interests of the British East India Company in 1858. Many of these measures had the support of the educated elite in India. Various laws were passed: infanticide was banned (1774); claims on legal rights on slaves (1843) were abolished; *sati* (widow immolation) was abolished on the initiative of Ram Mohan Roy in 1829 in Bengal, and later in other parts of the country; Caste Disabilities Removal Act of 1850 prevented religious conversions resulting in the forfeiture of inheritance; and Widow Remarriage Act of 1856 was passed. Many of these legal measures -- based on the principles of humanism, universalism and individualism -- introduced by the British, were contradictory to the traditional Hindu practices. Recognition of the individual rather than groups as the primary unit at least in all civil and legal matters and the establishment of the principle of individual equality led to the creation of a consciousness of positive rights. Another significance of the growth of the "rule of law" was "that even the governmental executive decisions were now contestable in civil courts, thus providing a foundation for the rule of law and the right of liberty and justice."[42]

The spread of modern education, growth of a universalistic legal system, and influence of Western ideas -- particularly the writings of liberal thinkers like Mill, Hume, Paine and Bentham, "enthused them with a feeling of nationhood and quest for freedom and liberty."[43] In a nation that was under colonial rule, this led to the mobilization of people's aspirations for freedom and found expression in political demands of equality.

3. National Freedom Movement

The demand for equality and freedom or the national freedom movement can be said to have broadly three phases from a rights point of view.

The *first phase* was directed towards gaining some kind of equality with the British. This was the central theme of the demands articulated by most of the organized interest groups throughout the nineteenth century. The *zamindars* or landlords were by and large supportive of the British rule, and formed associations

like the Zamindars Association (1837) to protect their interests. The peasants and the economically weaker sections initiated some localized movements but with little success. It was, however, the new urban middle class formed with the introduction of Western education that raised its voice for some kind of racial equality, especially in relation to opportunities in employment. This phase culminated in the formation of the Indian National Congress (INC) in 1885 and continued till the beginning of the rise of the extremist wing in the Congress. The INC during this period (the early phase or moderate phase), demanded representative political institutions, the repeal of such laws as the Arms Act of 1878, which prohibited any Indian from carrying arms, and sedition laws, especially the Seditious Meeting Act of 1911. It must, however, be said that the moderates, who dominated the INC in its early phase, supported much of the government legislation as "temporary measures" in the interest of "law and order." Additionally, the INC did not have any coherent policy on rights -- either in relation to peasants or factory and mine workers.[44]

The *second phase* can be said to begin with Gandhi's Rowlatt Satyagraha of 1919 -- which added a new dimension to the struggle for equality and freedom by providing a framework for "direct action" against the state. The Anarchical and Revolutionary Crimes Bill was enacted on 18 March 1919, and came be known popularly as the Rowlatt Act. As this was meant to tackle the growing revolutionary activities, it provided for special courts with no provision of appeal, trial in camera, extraordinary powers of search, etc. Gandhi started a *satyagraha* (satya = truth; agraha = to ask politely) to campaign against this Act on 6 April but called it off on 18 April following loss of lives and destruction of public property. Sitharamam sees this as "the first popular movement for a civil rights cause" for up till this time Congress protest had been merely in the form of passing resolutions, issuing appeals and submitting petitions to the government.[45]

Earlier, in a special session of the INC held in Bombay in 1918 to discuss the Bill, a Declaration of Rights had been adopted for the first time, setting out a comprehensive list of civil liberties, such as freedom of speech, expression and association, equality before the law, trial by jury, etc. The INC demanded its incorporation in a new constitution of India.[46] Events in 1919 led S. Satyamurthy, a Congress leader from Madras to write a book, *The Rights of Citizens*. One of the

themes was the demand for *swaraj* (self-rule) within the British dominion as a prerequisite for the protection of citizens' rights. Dutta has observed,

> The book makes it clear that the contemporary discussions on civil liberty did not originate, as many scholars would like us to believe, in an abstract intellectual exercise with the work of Western liberal philosophers. The objective situation created by the onslaught on peoples' rights during the First World War, and more profoundly, the threat of the draconian Rowlatt Act, called for the new awareness.[47]

The *third phase* can be seen to begin with the rise of Jawaharlal Nehru to the leadership of the INC in the early 1930s, and his definition of civil liberties as "the right to oppose the government." In 1927, the INC in its Madras session had asked its working committee to draft a constitution based on a Declaration of Rights. The Committee headed by Motilal Nehru -- the father of Jawaharlal Nehru -- prepared a draft (Nehru Report of 1928) incorporating nineteen "fundamental rights," including the right to life and liberty, freedom of speech and expression, and right to organize and assemble. The 1933 Karachi Resolutions adopted by the Congress emphasized both individual and group rights. It sought to secure for every citizen a comprehensive set of fundamental rights.[48] These were later incorporated in the constitution of free India. This phase can be said to culminate in the eventual independence of India in 1947.

Gandhi

The role of Gandhi in the national freedom movement can hardly be overemphasized, but what was his ideology as far as human rights are concerned? As the leader of the national freedom movement, Gandhi's objective was to attain independence -- but his other objective was to save Indian society, and more specifically, Hinduism. He insisted that India should show her capacity to reform herself even while asking for freedom. His method of integrating nationalist aspirations within the framework of social reform, explains his extraordinary tactics -- for example, his manner of suddenly calling off a movement when the nature of the movement turned violent.[49]

An important aspect of Gandhi's reform was that it had to take place absolutely *within* Hinduism. This was illustrated in Poona in 1931 when he fasted to exact from Ambedkar his renunciation of a separate electorate for the Untouchables.[50] His thrust was that of a social reformer campaigning amongst the higher castes of the Hindu community, propagating social acceptance of the Untouchables by the community. In this process, he renamed the Untouchables "Harijans" (sons of God). Hindu temples had been closed for entry to the Untouchables. Through various campaigns, Gandhi sought to bring about temple entry, and their acceptance in hotels and restaurants, etc.[51]

Gandhi's programme of social reform was based on duties rather than rights. He said very clearly that he did not care for rights, but for duties:

> If all simply insist on rights and no duties, there will be utter confusion and chaos. If instead of insisting on rights everyone does his duty, there will immediately be the rule of order established among mankind.[52]

Not only did he value duties more than rights, but went further to say that the assertions of rights might even be harmful:

> While it is true that . . . hereditary inequalities must go as being injurious to the well-being of society, the unabashed assertion of rights of the hitherto down-trodden millions is equally injurious, if not more so to the same well-being. The latter behaviour is probably calculated to injure the millions rather than the few claimants of divine or other rights. They could but die a brave or cowardly death but those few dead would not bring in the orderly life of blissful contentment.[53]

He argued that if there were any rights at all, it could only be the result of well-performed duties:

> It is therefore necessary to understand the correlation between rights and duties. I venture to suggest that rights that do not flow directly from duty well-performed are not worth having. They will be usurpations sooner discarded the better.[54]

But what happens in case someone does not perform his duty in relation to someone else? Gandhi takes the example of the princes and the *ryot* (peasant). He

says that if the princes, whose duty is to act as servants of the people, fail to perform their duty, "the *ryots* not only owe no return duty, but the duty devolves on them of resisting the princely usurpation. It may be otherwise said that *ryots* earn the right of resisting the usurpation or misrule." This resistance must however be peaceful, in keeping with the doctrine of *ahimsa* (non-violence): "The resistance will become a crime against man in terms of duty if it takes the form of murder, rapine and plunder."[55]

When H. G. Wells[56] sought Gandhi's opinion on the "Rights of Man" drawn up by him, Gandhi argued for a "Charter of Duties" instead. The text of the cable that Gandhi sent to Wells sets out his views regarding rights and duties in no uncertain terms.[57]

> RECEIVED YOUR CABLE. HAVE CAREFULLY READ YOUR FIVE ARTICLES. YOU WILL PERMIT ME TO SAY THAT YOU ARE IN THE WRONG TRACK. I FEEL SURE THAT I CAN DRAW UP A BETTER CHARTER OF RIGHTS THAN YOU HAVE DRAWN UP. BUT OF WHAT GOOD WILL IT BE? WHO WILL BECOME ITS GUARDIAN? IF YOU MEAN PROPAGANDA OR POPULAR EDUCATION YOU HAVE BEGUN AT THE WRONG END. I SUGGEST THE RIGHT WAY. BEGIN WITH A CHARTER OF DUTIES OF MAN (BOTH M AND D CAPITALS) AND I PROMISE THE RIGHTS WILL FOLLOW AS SPRING FOLLOWS WINTER. I WRITE FROM EXPERIENCE. AS A YOUNG MAN I BEGAN LIFE BY SEEKING TO ASSERT MY RIGHTS AND I SOON DISCOVERED I HAD NONE NOT EVEN OVER MY WIFE. SO I BEGAN BY DISCOVERING AND PERFORMING MY DUTY BY MY WIFE MY CHILDREN FRIENDS COMPANIONS AND SOCIETY AND I FIND TODAY THAT I HAVE GREATER RIGHTS PERHAPS THAN ANY LIVING MAN I KNOW. IF THIS IS TOO TALL A CLAIM THEN I SAY I DO NOT KNOW ANYONE WHO POSSESSES GREATER RIGHTS THAN I.

Gandhi takes the attitude of a social reformer calling upon the higher castes to accept the Untouchables. He does not say that the Untouchables have rights, but says that upper castes have a duty towards them. When he advocates resistance, it must be done in the manner of *satyagraha* -- that is, not by asking for rights, but by showing the other person what his duty is. It is obvious that Gandhian notions are not sympathetic to human rights unless they are products of duties well performed. Yet the relevance of Gandhi today lies in the fact that many rights activists identify themselves as "Gandhians" or followers of Gandhi. By this, they primarily mean that they follow his strategy of non-violent protest.

Ambedkar

The views of Gandhi can be contrasted with those of Ambedkar (1892-1956). Though both championed the cause of the Untouchables, their approaches differed widely.

Gandhi's work for the Untouchables was mainly done through the Harijan Sevak Sangh, of which Ambedkar was one of the early members, but later resigned -- and became one of the foremost critics of both the Sangh and Gandhi.[58]

> What is the object of this Harijan Sevak Sangh? Is it to prepare the Untouchables to win their freedom from their Hindu masters, to make them their social and political equals? Mr. Gandhi had never had any such object before him and he never wants to do this. This is the task of a democrat and a revolutionary. Mr. Gandhi is neither. He is a Tory by birth as well as by faith. The work of the Harijan Sevak Sangh is not to raise the Untouchables. His main object, as every self-respecting Untouchable knows, is to make India safe for Hindus and Hinduism. He is certainly not fighting the battle of the Untouchables. On the contrary by distributing through the Harijan Sevak Sangh petty gifts to petty Untouchables he is buying, benumbing and drawing the claws of the opposition of the Untouchables which he knows is the only force which will disrupt the caste system and will establish real democracy in India. Mr. Gandhi wants Hinduism and the Hindu caste system to remain intact. Mr. Gandhi also wants the Untouchables to remain as Hindus. But as what? Not as partners but as poor relations of the Hindus. Mr. Gandhi is kind to the Untouchables. But for what? Only because he wants to kill, by kindness, them and their movement for separation and independence from Hindus. The Harijan Sevak Sangh is one of the many techniques which has enabled Mr. Gandhi to be a successful humbug.[59]

These are indeed strong words. But it must be remembered that Ambedkar never forgave Gandhi for his "fast unto death" rather than consenting to the demands of the Untouchables for a separate electorate.[60]

The Untouchables were designated as Scheduled Castes under the Government of India Act of 1935 -- and this is a term still in use. Gandhi had started and popularized the term Harijan for the Untouchables (though many saw it as being

patronizing). Ambedkar, however, continued to use the term Untouchables.[61] The term now being increasingly used for them is "dalit" denoting "the oppressed."[62]

Ambedkar characterized the national movement led by Gandhi as the "struggle for power distinguished from freedom" and accused all political parties of showing no concern for the cause of the Untouchables. He argued that the freedom movement was merely a movement by the Hindus to restore traditional Hindu India, and saw the Indian National Congress primarily as a Hindu body, "a body of middle class Hindu supported by the Hindu capitalists whose object is not to make India free but to be independent of British control and to occupy places of power now occupied by the British." He further said that if freedom were achieved, it would bring no benefit to the Untouchables: "If the kind of Freedom which the Congress wants was achieved there is no doubt that the Hindus would do to the Untouchables exactly what they have been doing in the past."[63]

He firmly believed that the caste Hindus would not accede any rights to the Untouchables due to the very nature of Hinduism itself: "The Hindus have a innate and inveterate conservatism and they have a religion which is incompatible with liberty, equality and fraternity, i.e. with democracy."[64] It might be said that he simply did not trust the Hindus.

> Why should the Untouchables entrust their fate to such people? How could the Untouchables be legitimately asked to leave their interests into the hands of a people . . . who in all certainty deny justice to them and discriminate against them and who by reason of the sanction of their religion have not been and will not be ashamed to practise against the Untouchables any kind of inhumanity. The only safety against such people is to have the political rights which the Untouchables claim as safeguards against the tyranny of the Hindu Majority defined in the Constitution.[65]

His position thus led him to assert that the Hindus and Untouchables were "not merely different but antagonistic," and demand that the Untouchables ought to be treated as distinct from the Hindus. He advocated a separatist policy, including radical changes in the village system -- that is, forming separate Scheduled Caste villages, with land and money for settlement to be provided by the government. He called this the "New Life Movement," whose object was to "free the Untouchables from the thraldom of the Hindus."[66]

Thus, he advocated reservations in government and legislatures, in public services, judiciary, revenue and police services for Untouchables on the basis of "minimum qualification" -- not on the basis of "highest qualification" -- for he argued that "self government is better than good government" and that "good government based on highest qualification will be a communal government."[67]

While dismissing the idea of a purely territorial constituency, which would "only enable the Hindus to collect and concentrate all political power in their hands," and mixed electorates, where the representative would at best only be a "nominal representative" not a "real representative" of the Untouchables, Ambedkar argued that there should be separate electorates, that is, an electorate composed exclusively of Untouchable voters who would elect an Untouchable as their representative to the Legislature. His argument was that the caste basis of Hindu society required this kind of political structure. He believed that only constitutional provisions could guarantee rights to the Untouchables. To his critics, he could point out that these measures were necessary due to the caste basis of the Hindu society.[68]

Zelliot has aptly summarized the relative positions of Gandhi and Ambedkar.

> Gandhi sought to change the heart of the caste Hindu by moral pressure within the framework of Hindu tradition. Ambedkar continued to work in the fields of education and politics in an attempt to gain legal rights for the Untouchables in the secular world.[69]

Ambedkar's methods and solutions for the advancement of Untouchables, through legal and constitutional measures seems more in tune with the realities of Indian social order than Gandhi's attempt "to change the hearts of caste Hindus." It is not surprising, therefore, that the guiding ideology of the Untouchables, scheduled castes and other backward castes in modern India is that of Ambedkar rather than that of Gandhi.

Nehru and Indian Civil Liberties Union (ICLU)

Indian Civil Liberties Union (ICLU), the first civil liberties organization in India, emerged in the background of unprecedented repression on the Indian National Congress and was formally inaugurated on 24 August 1936.

Laws enacted by the British, primarily to curb the "revolutionary and terrorist struggles" began to be used to suppress the Congress-led civil disobedience movement which had begun in May 1930 to achieve the goal of complete independence. But even after the movement was called off in April 1934, and the Congress party decided to take part in the elections to the legislatures, there seemed to be little change in government attitude. The general secretary of the Congress party in his annual report complained that the government "preferred to coerce the people into submission by further curtailing their civil liberties rather than make an honourable peace with them."[70]

By mid-1935, about 55,000 Congress activists were still in prison. In his presidential address to the Congress Socialist Party in Calcutta (1935), Jayaprakash Narayan (popularly known as JP) noted the government design to make any "national and mass activities impossible" through various "acts of high-handedness and unlawful victimization." He then went on to suggest a possible solution: the formation of an organization to highlight such instances:

> Most of these acts would not be committed if the public were a little vigilant and if there were some organization, the task of which was to bring such acts to light and put up a fight against them, through the law courts, the legislature, the press and the platform . . . (which should be composed) not of political workers but of leading jurists of the country, eminent publicists, and journalists, women workers, social workers . . ."[71]

This was a time when various organizations were being formed for protecting the interests of particular sections of the society -- for example, the All India Kisan Sabha (All India Peasants Conference), All India Students Federation and the Progressive Writers' Association.[72] This seemed like an opportune moment to form a civil liberties organization. But it was not JP who founded the first such organization in India. It was Jawaharlal Nehru.

Nehru visualized a crucial role for a civil liberties organization in India. He had earlier met leaders of the American Civil Liberties Union (ACLU) in the US and the National Council for Civil Liberties (NCCL) in Britain,[73] observed their work and was impressed with what he saw.

> In America, England and France powerful civil liberties unions, of a purely non-party character, have been established to resist all such encroachments and their activities have borne substantial fruit. In India the necessity for such a joint effort embracing all groups and individuals, who believe in civil liberties, is obviously even more necessary than elsewhere.[74]

Additionally, during his European tour in 1935, he found "amazing ignorance" among people and members of parliament in England about the condition of political prisoners and civil liberties in India and was eager to rectify this. But, perhaps, most importantly, government repression was at its worst at this time in history, as noted by Nehru:

> This suppression has been progressively getting more widespread and intensive and has now become the normal feature of the administration . . . at no time since the revolt of 1857 have civil liberties in India been suppressed to the extent they are today.[75]

It is not surprising therefore that on his return from Europe in 1936, he seized this opportunity and proposed the formation of ICLU, which would "collect data and give publicity to it." He proposed that it would consist of individuals from all political parties and professions, and would be open to all who believed in the values of civil liberties, but it was not meant to be a mass organization. Nehru was specific: "The Union is not meant to be a mass organization, though there is no restriction on anyone becoming a member."[76] He accordingly sent letters to 150 prominent individuals.[77]

Only a few individuals really responded to Nehru's letter with enthusiasm.[78] There were many who refused to join the organization. The members of the Congress Working Committee felt that "there is no meaning if both the organizations have the same members." They wanted non-Congressmen to enrol. But members of other political parties feared that the new organization would merely be a "second string to the Congress bow" and opposed it on the grounds

that the Congress itself was responsible for the civil liberties situation and that it could be improved with the change in Congress strategy.[79] Even Gandhi did not join ICLU on the pretext that it was a "political organization." He wrote to Nehru,

> If you will not misunderstand me, I would like you to keep me free of the (work of the) Union. I do not like for the time being to join any political institution . . .[80]

Nehru, however, went ahead with the formation of ICLU -- and managed to attract some widely respected individuals to the organization -- including Rabindranath Tagore (a poet and Nobel laureate), and Sarojini Naidu (a poetess who later also held many important public offices including that of governorship). They were appointed honorary president and working president respectively, and headed a national council of "prominent persons," the supreme body of ICLU. Later, a twenty-one member executive committee was formed -- for day to day functioning of the organization -- which had its own president, chairperson, and general secretary.[81]

On the very day that ICLU was inaugurated (24 August 1936) as a national body, a branch (the Bombay Civil Liberties Union) was also established. Later other branches in Madras and Calcutta were established. ICLU organized public meetings and issued appeals to mobilize public opinion. According to Dutta, ICLU "investigated cases of political imprisonment, police brutalities, government bans and restrictions, etc." -- but as an organization, it did not make any significant impact.[82] Tarkunde, who was then a member of the Bombay branch, holds the same opinion:

> The CLU did not really become a force in the country at any stage. It has historical importance in that it was thought of at that time. But in the day to day affairs of the country, it hardly mattered . . . Domestically, a separate presence of the CLU was not felt as it took up the same issues as the nationalist movement.[83]

While the country was under British rule, it did not matter if ICLU and the Congress party were raising similar issues. Nehru envisaged the scope of civil liberties organizations as primarily preventing the government "from becoming too autocratic." He said:

> It is obvious that questions of civil liberties only arise when there is a conflict between the public or certain sections of it, and the executive government . . . A democracy can only function properly if public opinion constantly checks government and prevents it from becoming too autocratic . . . This does not and must not mean approval of the methods of any political party, nor does it mean that the Congress or any group should be allowed by government to carry on revolutionary activities or civil disobedience without check or hindrance. But there are certain fundamental principles governing civil liberties which apply whatever the activities of political parties might be.[84]

The scope is narrow in the sense that it focuses purely on the functioning of the government. The idea of civil liberties is advanced as the right to oppose the government. Dutta makes the same point when he says that the conception "was that the civil liberties movement was in fact an anti-state movement."[85] Though the role of civil liberties is seen as political, it is interesting to note that Nehru makes an implicit distinction between civil liberties and political groups. He seems to be saying that while political parties may and do resort to questionable methods, or engage in "revolutionary activities," a civil liberties group must be above this. This particular understanding of civil liberties later led to conflict between ICLU and the Congress party.

Even before the formation of the ICLU, the Liberals and some others had refrained from joining ICLU as they feared that it would be a "second string to the Congress bow." To this Nehru has said "that the Congress bow was a hefty bow and had many strings to it and many more would be added to it." He never doubted the role of the Congress in civil liberties. He emphasized: "The Congress is the largest organization in the country. The Congress has been fighting for the civil liberties of the Indians."[86]

Nehru obviously did not see any contradiction in the roles of the Congress and civil liberties activities. He was in fact proud of the achievements of the Congress ministries when they were eventually formed in 1937, after elections were held in the provinces (or states):

> The acceptance of ministerial office by the congressmen in six provinces, and later in one more province, brought about a rapid and marked change

in all these provinces. The change was especially noticeable in regard to civil liberties. The bans imposed by the Governments on hundreds of organizations were removed, a large number of political prisoners were released, securities taken from newspapers were returned, the continuous shadowing of and spying on people engaged in public work became less obvious. Public meetings and demonstrations were not interfered with. It seemed as if a heavy burden had been taken away and people in towns and villages alike breathed more freely."[87]

In spite of Nehru's claims, problems still remained, such as banning of political parties and censorship. For this he blamed the governor-general, the governors, central government legislations and the permanent services.[88]

However, within a year (1938), there was conflict between the Congress and ICLU, especially in Bombay. ICLU passed a resolution criticizing the Bombay government for continuing surveillance activities and the implication of labour leaders in fresh cases and their arrest. Replying to the criticism, K. M. Munshi, the then Home Minister of Bombay said: "You cannot have civil liberty in an atmosphere surcharged with violence and excitement such as a breach of the peace." The All India Congress Committee (AICC) passed a resolution on the same lines in September 1938, warning "the public that civil liberty does not cover acts of or incitement to violence or promulgation of palpable falsehoods." Nehru wrote to K. B. Menon, the secretary general of ICLU not to be "anti-Congress," and disassociate himself from the public demonstrations organized by the ICLU. [89]

Thus the changing tone and emphasis of the Congress party -- and even Nehru -- on civil liberties is evident. Before the elections leading to the formation of ministries, the tone was radical; in the first year of the functioning of ICLU and Congress ministries, Nehru was proud of the civil liberties record; but as soon as criticism began to be directed at Congress-led provincial governments, the tone was evidently lukewarm, if not almost hostile.

This made ICLU's task even more difficult. Sarojini Naidu resigned in 1938, and its work almost came to a halt. The demands of the national movement stunted the growth of any movement for civil liberties. As Tarkunde notes,

> In the nationalist movement, persons who were committed to civil liberties in a broad sense were very few . . . There was little broad-minded agreement on the necessity of individual freedom . . . from the beginning my feeling has been that the nationalist assertion had submerged the movement for social and individual freedoms.[90]

Finally, after independence, Nehru, contradicting his earlier perspective, said that the idea of an independent organization for disseminating information relating to violations of civil liberties was redundant. He withdrew from ICLU and urged that it be dissolved. It had anyway long been defunct.[91]

4. Post-Independence India

After the advent of independence, the Congress party, which had earlier been in the forefront of the national movement and raised some issues concerning civil liberties, became the "ruling party." Nehru became the first prime minister of the country. The focus shifted to "development." It is now generally accepted that the development policies pursued by successive governments after independence did not lead to any significant rise in living standards, or as harsher critics would say, it led to the "continuing impoverishment and marginalisation of millions of people . . . Distributive justice, popular participation, 'wars' on poverty -- all still remain, by and large, pious intentions."[92]

Additionally, immediately after the independence, the government was faced with the primary task of holding the country together, which "often involved armed repression of rebellious groups and forced annexation of political units that were unwilling to join the new republic."[93] The government had to use the same institutions that the Congress had been so critical of in the past: the civil service, army and the police -- armed with similar "repressive powers."

In these circumstances, the Communist party (which had been formed in 1925), emerged as a major critic of government policies.[94] It also became vigilant about issues dealing with people's rights. There were instances of police firing on peasants, political activists, students and trade union leaders in the first two years

of independence, and in the following two decades.[95] A Communist party worker, wrote about police repression:

> In 1947, the Congress Government used bullets to silence the widespread mass movements that had begun in west Bengal against this black Act (Internal Security Act). The young social worker Sisir Mandal was the first to lay his life before their bullets. After that, a regime of naked terror was brought about in west Bengal from 1948 by the indiscriminate application of this hated Act.[96]

A lawyer, A. K. Pillai, bemoaned the absence of any civil liberties in the initial years after independence:

> The all-too limited liberties which the subject had under the British regime, have themselves become the first casualty in the wake of the advent of national independence.[97]

As far as organized response to human rights violation is concerned, the issue was taken up by a few intellectuals, political leaders, and lawyers in different parts of the country. There were efforts to form organizations on the lines of ICLU.

Organizations were formed in Madras, Calcutta, Bombay and Assam. The Madras Civil Liberties Union (MCLU) was revived in the latter part of 1947. It supported the local peasant movement against Madras government's reluctance to adopt land reform policies. It was also concerned with repression on regional political parties and other national parties like the Rastrya Swayamsevak Sangh (RSS) and the Communist Party of India (CPI) after they were banned in 1948. This organization was led by S. Krishnamoorthy, mostly as a one-man organization (with additional help from a few lawyers) until his death in 1976.[98]

The Bombay Civil Liberties Union (BCLU) was revived by S. G. Waze and V. M. Tarkunde, who were earlier associated with the ICLU. This organization, like the one in Madras, took up detention cases of RSS and CPI party workers,[99] but could not sustain its activities for more than a few years.

The Calcutta Civil Liberties Union (CCLU) was established in 1948 by some well-known intellectuals and left-wing political activists to highlight mass

detention and torture of Communist activists, especially as they were leading a peasant movement called the Tebhaga movement.[100] The organization issued a bitter note on 22 October 1949:

> For the last twenty-one months, the Roy Ministry . . . have been submerging in bloodbath the workers' demands for bread and the peasants' demand for land . . . The barbaric torture of the political prisoners by the fascist government has surpassed that of the days of Anderson (British officer who ordered the police to fire and kill participants at a public meeting in Jallianwalla Bagh, Amritsar, in 1919).[101]

Its secretary and two joint secretaries were arrested, and the president was prevented from making public speeches. However, after the general elections were announced in 1952 and political prisoners released, the organization lost the support of political parties and became inactive.[102]

These regional organizations made an attempt to form a national level organization. The Bombay Civil Liberties Union organized an All India Civil Liberties Conference in Bombay on 1-2 January 1949; later the same year, another Conference was organized in Madras on 16-17 July 1949 by the Madras Civil Liberties Union. This led to the establishment of an All India Civil Liberties Association (AICLA), which remained largely inactive. An effort was made to rejuvenate it in an All India Civil Liberties Conference held in Calcutta in 1954, but it was a fruitless exercise.[103]

After the enactment of preventive detention laws in 1951, some lawyers got together and organized a Convention on Civil Liberties in Guwahati in June-July 1951. The All Assam Civil Liberties Union (AACLU) was born at this Convention, and was affiliated to the All India Civil Liberties Association. But it had a very short life-span: it became defunct as soon as political prisoners were released in 1952 after the general elections.[104]

In the wake of Sino-Indian war in 1962, there was large scale arrest of CPI activists. In 1964, members of the newly formed Communist Party of India (Marxist) were arrested indiscriminately. This led to the establishment of another national level organization, the All India Civil Rights Organization (AICRO),

following a Convention held in Bombay on 13 June 1965. It became inactive when Communist leaders were released and elections declared in 1967.[105]

Conclusion

The ancient Indian traditions were not sympathetic to notions of individual freedom and human rights as understood today. They did not carry the conception of "equality," or the conception that all humans are born free and equal in dignity. Rights, if any, were extended only to elite groups. The emphasis was on duty. The heterodox traditions struggled against caste discrimination, and preached religious tolerance, but did not advocate any notion of human rights. Similarly, the Muslim tradition and social reality can hardly be said to present a notion of the rights of the individual.

Human rights with their modern attributes are a development more or less parallel with the growth of constitutional government and parliamentary institutions from the time of the British rule in India. The demand for civil and political rights was first raised by the Western educated elite. It grew as a response to changes in the political system, and was incorporated in the nationalist ideology, championed by the Congress party.

The efforts of Nehru led to the formation of the first human rights organization in 1936. This became a model for various organizations that were later formed in the post-independence period, when Congress-led governments became their primary target. These organizations were highly informal, and limited in their scope. Their central (and perhaps, only) concern was to focus on repressive laws, and arrest of political activists. Each of these organizations (with the exception of the Madras Civil Liberties Union) became defunct once political prisoners were released or elections announced. The faith in parliamentary democracy was still firm. This faith began to be shaken towards the end of the 1960s, and gave rise to the current human rights movement.

NOTES

1. Richard E. Flathman, *The Practice of Rights.* Cambridge: Cambridge University Press, 1976, pp. 2-3.

2. A. H. Robertson, *Human Rights in the World: An Introduction to the International Protection of Human Rights,* 2nd edition, Manchester: Manchester University Press, 1982, p. 9.

3. Ralph Buultjens, "Human Rights in Indian Political Culture," in *The Moral Imperative of Human Rights: A World Survey,* edited by Kenneth W. Thompson, Washington D.C.: University Press of America, 1980, p. 109.

4. Buultjens, op. cit., pp. 110-111.

5. This view is taken by a number of scholars. For example, see A. K. Ramanujan, "Is There an Indian Way of Thinking? in *India Through Hindu Categories,* edited by McKim Marriott, New Delhi: Sage Publications, 1990, pp. 41-57; A. B. Shah, *Religion and Society in India,* Bombay and New Delhi: Somaiya Publications, 1981, pp. 23-24; and K. R. Jadhav, "Foreword" in *The State and Repressive Culture: The Andhra Experience* by Kancha Ilaiah. Hyderabad: Swecha Prachuranalu, 1989, pp. iv-v.

6. There is some doubt as to whether Manu was an actual person. However, this need not concern us here. What is relevant is that the *Manava Dharma Sutra* is commonly attributed to him, and that this document is accepted to reflect the era it was compiled in, which is about 200 BC to 200 AD.

7. Romila Thapar, "The Hindu and Buddhist Traditions," in *International Social Science Journal,* vol. 18, no. 1, 1966, p. 31; Kana Mitra, "Human Rights in Hinduism," in *Journal of Ecumenical Studies,* vol. 19, no. 3, Spring 1982, p. 77; Kancha Ilaiah, *The State and Repressive Culture: The Andhra Experience,* Hyderabad: Swecha Prachuranalu, 1989, p. 130.

8. Buultjens, op. cit., p. 111; Romila Thapar, op. cit., p. 32.

9. Buultjens, op. cit., p. 111; Mitra, op. cit., pp. 79-80.

10. Jadhav, op. cit., p. iv.

11. In actual practice, these four castes have numerous sub-castes. For more details, see Mitra, op. cit., pp. 79-80. For an analysis of the concept of untouchability, see Simon R. Charsley, "'Untouchable': What is in a Name?" in *Journal of the Royal Anthropological Institute,* incorporating *Man,* New Series, vol. 2, no. 1, 1996, pp. 1-23.

12. Buultjens, op. cit., p. 112.

13. This refers to four stages into which a man's life was divided: *bramacharya* or being a student, *grihasthya* or duty as householder, *vanaprastha* or duty to detach

from worldly pursuits and retirement from professional and domestic duties and preparation for the next stage, and finally, *sanyasa* or ascetic, wherein all caste barriers are transcended. Mitra, op. cit, p. 80; Romila Thapar, op. cit., p. 35.

14. Romila Thapar, op. cit., p. 34.

15. Romila Thapar, op. cit., p. 35; The Sanskrit word *adhikara* (just claim or right) was used by Manu only in reference to the Brahmins. Mitra, op. cit., pp. 78-79.

16. Ramanujan, op. cit., p. 46.

17. Romila Thapar, op. cit., p. 36; Kancha Ilaiah, "Buddhism as Political Philosophy," PhD Thesis, Osmania University, Hyderabad, 1993, p. 246.

18. Romila Thapar, op. cit., p. 35; Ilaiah, "Buddhism," op. cit., pp. 152 and 178-80.

19. P. B. Mukarji, *Civil Liberties: Ramananda Lectures (1965) of the Calcutta University,* Bombay: N. M. Tripathi Private Ltd., 1968, pp. 19-28; Subhash C. Kashyap, *Human Rights and Parliament,* New Delhi: Metropolitan, 1978, pp. 19-20; Nagendra Singh, *Human Rights and the Future of Mankind,* Delhi: Vanity Books, 1981, p. 9; Satish Kumar, "Human Rights and Economic Development," in *Human Rights Quarterly,* vol. 3, no. 3, Summer 1981, pp. 47-48.

20. For reasons why heterodox tradition failed to overthrow the brahmanical tradition, see Romila Thapar, op. cit., p. 37, note 4.

21. Another religion that emerged much later was Sikhism in the sixteenth century. The founder was Guru Nanak (1469-1538), and the last *guru* was Govinda Singh (1675-1708). See Khushwant Singh, *A History of the Sikhs,* 2 vols., Princeton: Princeton: Princeton University Press, 1963-66.

22. Mitra, op. cit., p. 80.

23. Buultjens, op. cit., p. 115.

24. Ilaiah, "Buddhism," op. cit., pp. 136-140 and 147-48.

25. Romila Thapar, op. cit., p. 33.

26. Ibid., pp. 36-37; Ilaiah, "Buddhism," op. cit., pp. 210 and 245.

27. Ilaiah, "Buddhism," pp. 213 and 247-68; see also Kenneth K. Inada, "The Buddhist Perspective on Human Rights," in *Journal of Ecumenical Studies,* vol. 19, no. 3, Spring, 1982, pp. 66-76. He has argued that in Buddhism, the question of human rights is secondary to the question of human nature for human rights is merely a legal matter. Buddha's doctrine of *anatman* or non-self refers to going beyond self and therefore individual human rights are meaningless.

28. Ilaiah, "Buddhism," op. cit., p. 245; Romila Thapar, op. cit., p. 37.

29. The most siginficant period of Muslim rule was during what is known as the Mughal dynasty founded by Babur in 1526; the last "Great Mughal" emperor was Aurenzed (1658-1707). The last nonminal Mughal emperor was formally deposed in 1858. See Ishwari Prasad, *A Short History of Muslim Rule in India: From the Conquest of Islam to the Death of Aurangzeb,* third edition, Allahabad: 1933; Percival Spear, *A History of India,* volume 2, Harmondsworth: Penguin Books, 1985 (first published 1965), pp. 15-80.

30. For details, see Riffat Hassan, "On Human Rights and the Qur'anic Perspective," in *Journal of Ecumenical Studies,* vol. 19, no. 3, Spring 1982, pp. 55-66. See also James P. Piscatori, "Human Rights in Islamic Political Culture," in *The Moral Imperative of Human Rights: A World Survey,* edited by Kenneth W. Thompson. Washington D.C.: University Press of America, 1980, pp. 142-43.

31. The original tribal egalitarian system was soon transformed into religion-oriented egalitarianism; with foreign conquests (which were provided with moral and religious justifications by the *ulemas* or Muslim priests) this was further transformed into feudal-authoritarian structure. Yogendra Singh, *Modernization of Indian Tradition,* Jaipur: Rawat Publications, 1986, pp. 64-68 and 74-76.

32. Ibid., pp. 63-64; see also Prasad, op. cit.

33. Piscatori, op. cit, p. 145-46.

34. Y. Singh, op. cit., pp. 64, 71 and 79-81; Prasad, op. cit., 664-708.

35. Om Gautam, "Human Rights in India," in *Towards a Human Rights Framework,* edited by Peter Schwab and Admantia Pollis. New York: Praeger Publishers, 1982, pp. 170-71; see also Spear, op. cit., pp.26-39.

36. Y. Singh, op. cit., pp. 69-70.

37. Ibid., p. 71. For an account of realtions between the Hindus and Muslims, see Gardner Murphy, "The Insecurity of the Muslims," in *In the Minds of Men: A Study of Human Behaviour and Social Tension in India* by Gardner Murphy, New York: Basic Books, 1953, pp. 117-165.

38. The earlier contacts -- first with the Portuguese in the fifteenth and sixteenth centuries, and later with the Dutch and the French in the seventeenth and eighteenth centuries -- did not result in any significant influence. See L. S. S. O'Malley, "The Impact of European Civilization," in *Modern India and the West: A Study of the Interaction of their Civilizations,* edited by L. S. S. O'Malley, London: Oxford University Press, 1941, pp. 44-50; K. P. Karunakaran, *Religion and Political Awakening in India,* Meerut: Meenakshi Press, 1969, pp. 19-34.

39. Shanti S. Tangri, "Intellectuals and Society in Nineteenth-Century India," in *Comparative Studies in Society and History,* vol 3, 1960-61, pp. 272-73. Quoted in Y. Singh, op. cit., p. 103.

40. Y. Singh, op. cit., p. 91; D. P. Singhal, *A History of the Indian People,* London: Methuen, 1983, pp. 307-326; J. C. Ghosh, et al., "Literature and Drama,"

in *Modern India and the West: A Study of the Interaction of their Civilizations,* edited by L. S. S. O'Malley, London: Oxford University Press, 1941, pp. 487-528.

41. Mitra, op. cit.. p. 81; Gautam, op. cit., pp. 170-71; Y. Singh, op. cit., pp. 90-92. See also J. T. F. Jordens, "Hindu Religious and Social Reform in British India," in *A Cultural History of India,* edited by A. L. Basham, Oxford: Clarendon Press, 1975, pp. 365-382.

42. Y. Singh, op. cit., pp. 92-101; Buultjens, op. cit., pp. 117-18; Jordens, op. cit.; Singhal, op. cit.; see also Benjamin Lindsay, "Law" in *Modern India and the West: A Study of the Interaction of their Civilizations,* edited by L. S. S. O'Malley, London: Oxford University Press, 1941, pp. 107-137; Srinivas, M. N. *Social Change in India.* Berkley and Los Angles: University of California Press, 1966, 48-50.

43. Y. Singh, op. cit, p. 97;

44. A. R. Desai, *Social Background of Indian Nationalism,* 5th edition, Bombay: Popular Prakashan, 1976, chapters 3, 4 and 7; Spear, op. cit., 158-180.

45. K. Sitharamam, "Civil Rights Movement in India." PhD Thesis. Centre for Social Studies, South Gujarat University, Surat, 1993, pp. 18-19.

46. Ibid., p. 19.

47. Nilanjan Dutta, "With Little Victories and Big Defeats," in *Civil Rights: Past and Present,* Calcutta: Sujato Bhadra for APDR, 1986, pp. 41-42.

48. International League for the Rights of Man (ILRM), "The Violation of Human Rights in India," in *Case Studies on Human Rights and Fundamental Freedoms,* edited by Willem A. Veenhoven, et al., The Hague: Martinus Nijhoff, 1975, vol. 5, p. 509; Subhash C. Kashyap, op. cit., p. 20; Gautam, op. cit., p. 173-74.

49. An excellent example is calling off the Civil Disobedience or Non Co-operation movement in February 1922 after a crowd attacked a police station in Chauri Chaura, killing 22 policemen. See Desai, *Social Background,* op. cit., p. 352.

50. Louis Dumont, "Nationalism and Communalism," in *Religion, Politics and History in India: Collected Papers in Indian Sociology,* Paris: Mouton Publishers, 1970, p. 104.

51. S. R. Mohan Das, "Discrimination in India," in *Case Studies on Human Rights and Fundamental Freedoms,* edited by Willem A. Veenhoven, et al. The Hague: Martinus Nijhoff, 1975, vol. 2, p. 164.

52. M. K. Gandhi, "Rights and Duties," in *The Moral and Political Writings of Mahatma Gandhi*, edited by Raghvan Iyer. Oxford: Clarendon Press, 1986, vol. 3, p. 496. (First published in *Harijan,* 6 July 1947).

53. Ibid.

54. Ibid.

55. Ibid., p. 498.

56. Herbert George Wells (1886-1946), English novelist, and historian; author of *The Time Machine, The War of the Worlds, The Shape of Things to Come, The Outline of History, The Invisible Man,* and various other works.

57. Gandhi quoted in Iyer, op. cit., vol. pp. 492-3. First published in *The Hindustan Times,* 16 April 1940.

58. For details, see Eleanor Zelliot, "Gandhi and Ambedkar -- A Study in Leadership," in *The Untouchables in Contemporary India* edited by Michael J. Mahar, Tuscon, Arizona: The University of Arizona Press, 1972, pp. 87-88.

59. B. R. Ambedkar, *Emancipation of the Untouchables,* Bombay: Thacker and Co., Ltd, 1972, pp. 55-56. (First published in 1943).

60. Ibid., pp. 20-21.

61. Ibid., p. 15; For a discussion of various terms for the Untouchables, see Harold R. Isaccs, "The Ex-Untouchables," in *The Untouchables in Contemporary India*, edited by Michael J. Mahar. Tuscon, Arizona: The University of Arizona Press, 1972, pp. 383-91

62. The term "dalit" popularized by the protest movements since the 1970s. It includes all backward sections, and at times, specifically the Untouchables. See Barbara R. Joshi, editor, *Untouchable! Voices of the Dalit Liberation Movement,* London: Zed Books and The Minority Rights Group, 1986, pp. 3-4.

63. Ambedkar, op. cit., pp. 13-14.

64. Ibid., pp. 52-53.

65. Ibid., pp. 46-47.

66. Ibid., pp. 15-18, 32-33, 37 and 40.

67. Ibid., pp. 16 and 31.

68. Ibid., pp. 15-16 and 24-30.

69. Zelliot, op. cit., p. 86.

70. Sitharamam op. cit., p. 22.

71. Yusuf Meherally, editor, *Towards Struggle: Selected Manifestos, Speeches and Writings of Jayaprakash Narayan,* Bombay: Padma Publications, 1946, p. 108-9.

72. Nilanjan Dutta, "With Little Victories and Big Defeats," in APDR, *Civil Rights: Past and Present,* Calcutta: Sujato Bhadra for APDR, 1986, p. 42.

73. For a historical account of NCCL, see Mark Lilly, *The National Council for Civil Liberties: The First Fifty Years,* London and Basingstoke: Macmillan, 1984.

74. Jawaharlal Nehru, "Circular Proposing the Setting up of ICLU, 22 April 1936." in APDR, *Two Decade of APDR and Human Rights,* Calcutta: Sujato Bhadra for APDR, 1991, p. 20.

75. Nehru, "Circular," op. cit., p. 19.

76. Jawaharlal Nehru. "The First Declaration: Speech at the Inauguration of ICLU, 24 Aug 1936," in APDR, *Two Decade of APDR and Human Rights,* Calcutta: Sujato Bhadra for APDR, 1991, p. 22.

77. Dutta, "With Little Victories," op. cit., p. 42; Sitharamam , op. cit., pp. 22-23.

78. Amrit Kaur was one. She was an enthusiastic supporter of this organization, asked questions and suggested measures. But it seems that she was not too happy with the organization as it functioned. In one of her letters, she deplores "the fact that a woman has not been appointed a member of the Working Committee"; in another, she wrote: "no apology is necessary regarding the omission of my name from the list of members of the civil liberties organization." See Amrit Kaur, "Letters to Jawaharlal Nehru (from Simla)," four letters: dated 9 May 1936, 28 May 1936, 30 May 1936, and 6 September 1937, New Delhi: Nehru Memorial Museum and Library. Holograph

79. Sitharamam, op. cit., p. 24.

80. M. K. Gandhi, Letter to Jawaharlal Nehru, Dated 15 July 1936, New Delhi: Nehru Memorial Museum and Library. Holograph.

81. The 21-member executive committee included Nehru, Abdul Kalam Azad, Sharat Bose, Ramananda Chattopadhya, Bhulabhai Desai, Zakir Hussain, Amrit Kaur. Jayaprakash Narayan, Sardar Patel and Rajendra Prasad, among others. Sitharamam, op. cit., p. 24-25.

82. A branch in Punjab was also established, but its details are not available. The regional branches had their own executive committees. Though there was some communication between regional organizations and ICLU, it is not clear if they functioned independently or under the direction of ICLU. The relation between the national council and executive committee of ICLU is also not clear due to lack of data. Sitharamam, op. cit., pp. 24-25; Dutta," With Little Victories," op. cit., p. 43.

83. Smitu Kothari, "An Interview with V. M. Tarkunde." In *Rethinking Human Rights: Challenges for Theory and Action,* edited by Smitu Kothari and Harsh Sethi. New York: New Horizons Press and Delhi: Lokayan, 1989, p. 136.

84. Nehru quoted in Sitharamam, op. cit., pp. 25-26.

85. Dutta, " With Little Victories," op. cit., p. 43.

86. Nehru, "The First Declaration," op. cit., pp. 21-23.

87. Jawaharlal Nehru, "Message to Indian Civil Liberties Conference to be Held in London on 17 October 1937," 4 October 1937. New Delhi: Nehru Memorial Museum and Library, p. 2. Holograph.

88. Ibid., pp. 3-4.

89. Sitharamam, op. cit., pp. 28-30; see also Desai, *Social Background,* op. cit.. pp. 375-76.

90. Smitu Kothari. "An Interview with V. M. Tarkunde," op. cit., p. 137.

91. Ibid.

92. Smitu Kothari, "The Human Rights Movement in India: Crisis and Challenges," in *Human Rights and Development: International Views,* edited by David P. Forsythe, 1989, p. 94; See also A. R. Desai, "Rural Development and Human Rights in Independent India, In *Economic and Political Weekly,* 1 August 1987, pp. 1291-96. Desai has argued that the concept of rural development underwent a change in 1950s, to further enrich the better-off at the cost of the rural poor.

93. Atul Kohli, *Democracy and Discontent: India's Growing Crisis of Governability,* Cambridge: Cambridge University Press, 1990.

94. Sumit Sarkar, *Modern India, 1885-1947,* Basingstoke: The Macmillan Press, 1989, pp. 247-51 and 411-13.

95. Nilanjan Dutta, *Violation of Democratic Rights in West Bengal Since Independence,* edited by A. R. Desai, Bombay: C. G. Shah Memorial Trust. 1985, pp 4-9. Reprinted in *Expanding Governmental Lawlessness and Organized Struggles,* edited by A. R. Desai. Bombay: Popular press, 1991, pp. 236-256.

96. Quoted in Nilanjan Dutta, *Violation of Democratic Rights,* op. cit., pp. 4-5.

97. A. K. Pillai, quoted in Dutta, "With Little Victories," op. cit., p. 45.

98. P. V. Ramanajunam, "A Brief Outline of the History of the Democratic Movement in Tamil Nadu," in *Civil Rights: Past and Present,* Calcutta: Sujato Bhadra for APDR, 1986, pp. 26-27; also Sitharamam, op. cit., pp. 38-39.

99. Sitharamam op. cit., pp. 40-41.

100. See Dutta, *Violation of Democratic Rights,* op. cit., pp. 236-256; also Sitharamam, op. cit., 39-40.

101. Quoted in Dutta, *Violation of Democratic Rights,* op. cit., p. 7.

102. See Dutta, *Violation of Democratic Rights,* op. cit., pp. 5-7; also Sitharamam op. cit., pp. 39-40.

103. Dutta, *Violation of Democratic Rights,* op. cit., pp, 4-9; Dutta, "Little Victories," op. cit., p. 45; Sitharamam, op. cit., pp. 39-41.

104. D. K. Kakati, "The Civil Liberties Movement in Assam," in *Civil Liberties: Past and Present,* Calcutta: Sujato Bhadra for APDR, 1986, pp. 33-34; also Sitharamam, op. cit., p. 41.

105. Sitharamam, op.cit., pp. 43.

3

International Organization

International non-governmental organizations are in the forefront of the struggle for human rights. They often have substantial resources, and can influence worldwide public opinion. One such well-known organization is Amnesty International (AI). Its work on India has been tangible, and has brought visible results.

Amnesty has formal relations with the United Nations and other intergovernmental organizations.[1] Its logo has a candle encircled by a barbed wire. In the words of the founder of the organization, "The candle burns not for us but for all those whom we failed to rescue from prisons, who were shot on the way to the prison, who were tortured and who were kidnapped, who 'disappeared.'"[2] In 1977, it received the Nobel Peace Prize for its contribution to "securing the ground for freedoms, for justice, and liberty, and thereby also for peace in the world," and in 1978, on the occasion of the thirteeth anniversary of the Universal Declaration of Human Rights, it was given an award for "outstanding achievement in the field of human rights."[3]

In section 1 of this chapter, I describe Amnesty's origins, aims, nature, and structure. I show that it is primarily a prisoner-oriented organization; that its main concerns deal with the death penalty, torture and political killings. Further, that it has a meticulous system of information gathering, and has a range of effective strategies such as the adoption of prisoners and letter writing. In section 2, I highlight some of its activities and concerns in India from the early 1970s onwards, its work during the Emergency, the difficulties it has encountered in gaining access to the country, and its efforts to make the organization more relevant to Indian conditions. In section 3, I concentrate on the state of its Indian section, and the problems by which it has been plagued.

1. Amnesty International

Amnesty was founded in 1961 as the result of an appeal by a British lawyer, Peter Benenson, who had become increasingly concerned about large number of prisoners throughout the world deprived of liberty for openly expressing their beliefs.[4]

Benenson had assisted political and religious prisoners in different parts of the world, and attended political trials as an observer. In 1959, he sought the help of leading lawyers of the three main political parties in Britain and founded Justice, an all-party organization of lawyers, which later became the British section of the International Commission of Jurists, a non-governmental human rights organization. In 1961, his efforts led to the launching of the widely publicized campaign, Appeal for Amnesty 1961.[5]

This campaign was in response to a newspaper report in November 1960 about two Portuguese students in Lisbon who had been awarded seven years' imprisonment for raising their glasses in public in a toast to freedom. Benenson got together with Eric Baker, a prominent Quaker, and Louis Blom-Cooper, an internationally known lawyer to launch this campaign.[6]

The aims of the campaign were limited but clear cut -- to work impartially for the release of those imprisoned for their opinion, and to urge the creation of effective international machinery to guarantee freedom of opinion.[7] It was meant to be a one-year straightforward campaign: to get the facts, motivate public opinion, and organize pressure to help the victims and their families.

The Appeal began with the publication of an article, "The Forgotten Prisoners" in *The Observer Weekend Review* on 28 May 1961. In this article Benenson said that "the important thing is to mobilize public opinion quickly, and widely, before a government is caught up in the vicious spiral caused by its own repression."[8] Twenty-five years later, he emphasized the importance of this article and the role of *The Observer*: "Not only did *The Observer* give over the whole of the front page of its Review Section to my article, "The Forgotten Prisoners". . . but it also

arranged for it to be printed in whole or in part in many of the world's most influential papers."[9]

Le Monde simultaneously carried its own piece. The next day various other newspapers printed the article -- the *New York Herald Tribune, Die Welt, Journal de Geneve,* and newspapers in Denmark, Sweden, Holland, Italy, South Africa, Belgium, Ireland and India.[10] It was subsequently "reprinted in hundreds of newspapers across the world, and broadcast from radio stations in every continent."[11] The first press conference was held the next day. Speakers included three MPs from three political parties in Britain.[12]

The appeal found immediate response, and the reaction was overwhelming: a flood of letters and donations poured in, together with a great amount of information on thousands of other prisoners of conscience.[13] In all, people from more than thirty countries responded almost immediately.[14] Two months later, at a meeting in Luxemburg, representatives from five countries decided to turn the one-year campaign into a permanent "international movement" to organize practical help for prisoners.[15]

Many prominent persons, including the philosopher Bertrand Russell, also joined the campaign.[16] Sean MacBride, too, offered his services to Amnesty and became the first chairperson of its International Executive Committee.[17]

In its first twelve months the organization sent four missions to make representations to governments: Czechoslovakia, Ghana, German Democratic Republic and Portugal. There were 210 cases "under active investigation." A greeting card campaign at the end of the year resulted in some 5,000 messages being sent to 12 prisoners in different countries.[18]

Nature and Aims

The objectives of Amnesty are defined in its statute.[19] They are:

1. To work for the immediate and unconditional release of "prisoners of conscience." Prisoners of conscience (POCs) are defined as persons imprisoned or detained "by reason of the political, religious or other conscientiously held beliefs or by reason of their ethnic origin, colour or language, *provided they have not used or advocated violence*" (emphasis added).

2. To ensure that prisoners of conscience and political prisoners are not detained either without trial or on the basis of an unfair trial, i.e. trials "that do not conform to recognized norms."[20] Amnesty demands fair and prompt trials for them.

3. To seek the abolition of the death penalty and the elimination of the use of torture and inhuman, degrading punishments on all prisoners.

4. To oppose extrajudicial execution and "disappearances," whether or not the persons affected have used or advocated violence.

Amnesty bases its work on principles set forth in the Universal Declaration of Human Rights. However, it "concentrates on its own defined area in order to be as effective as possible and to put its limited resources to the most efficient use. It therefore takes up only those cases that fall within its object, as set out in its statute. This object is commonly referred to as Amnesty International's 'mandate.'"[21]

This mandate has changed very little over the years. However, it was expanded in 1991 to incorporate the fourth clause (dealing with "disappearances" and extrajudicial killings) explicitly. An important decision was to expand its work on abuses by armed opposition groups. These changes were suggested by the Mandate Review Committee set up in 1987 to review the entire mandate.[22]

A significant feature of the organization is that it is prisoner-oriented. Its other concerns relate to death penalty, torture and "disappearances" or political killings by governments.

Prisoner Oriented. Amnesty concentrates on people who have been jailed or otherwise forcibly restricted: people in prisons, in official custody and detention

centres, or those under house arrest. For this reason, its mandate is often described as "prisoner-oriented."[23]

It makes a distinction between what it calls prisoners of conscience (hereafter called POCs), political prisoners and other prisoners. The crucial difference between the terms "POCs" and "political prisoners" is that whereas in the case of POCs, Amnesty says that the individuals should not be in prison at all and asks for their immediate and unconditional release, in the case of political prisoners, who have used or advocated violence, it seeks fair and prompt trial.[24]

It uses a broad interpretation of the term "political prisoners" so as to cover all cases with a significant political element -- e.g., prisoners belonging to a banned political party, where an ordinary crime is committed in a political context or for political motives, or where prisoners are held with false criminal charges for political reasons. However, Amnesty does not oppose political imprisonment *as such* or ask for the release of all political prisoners.[25]

It investigates political trials and cases of imprisonment without trial. It sends observers to trials and examines laws and procedures that permit unfair trial in political cases or imprisonment without trial. If prisoners are not eligible for adoption as POCs, their cases may be assigned to groups which are asked to urge that prisoners' right to a fair trial within a reasonable time be respected. In some cases, it calls for a review of the cases, either by established judicial procedures or by an independent review body. It recommends legislative improvements or urges that existing laws that offer protection be respected.[26]

In the case of other prisoners, where a person has been imprisoned solely for criminal acts -- such as traffic offence, theft or murder -- and if there are no grounds to believe that either the crime or the imprisonment were politically motivated, the case does *not* fall within its mandate. For this reason, it does not take action even if there are allegations that there may have been miscarriages of justice in such cases.[27]

The monthly *Amnesty International Newsletter* publishes in every issue three cases of POCs detained in different parts of the world. Amnesty members are

asked to send appeals on behalf of these prisoners to heads of state and other officials.[28] In 1963, it had a "prisoner of the year," an appellation used to produce added publicity for a POC. But this practice was soon abandoned as it was said to imply competition.[29]

The Death Penalty. Amnesty campaigns for the abolition of all legal action providing for death penalty in *all* cases on the grounds that it is a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment. It puts forward a two-fold argument: that "the imposition and infliction of the death penalty is brutalizing to all who are involved in the process, (and that) it has never been shown to have any special deterrent effect against violent crimes."[30]

Torture. Since 1973, Amnesty has been conducting an international campaign for the abolition of torture.[31] It has also launched a 12-point Programme for the Prevention of Torture. It opposes torture of *all* prisoners without reservation.[32]

However, it makes a distinction between "torture" and "cruel, inhuman or degrading" treatment. It tries to act against "torture" in all individual cases, but works against "cruel, inhuman or degrading treatment" only where the practice constitutes a pattern. Individual cases are taken up as a means of illustrating general problems.[33]

"Disappearances" and Political Killings by Governments. These are cases of people who have unaccounably disappeared or are believed to be victims of deliberate killings carried out on the orders of governments or with their complicity. Amnesty takes action when it is reasonable to believe that they are the result of a governmental policy to eliminate specific individuals, or groupings, or categories of individuals, by instant execution rather than arrest and imprisonment. When details of a possible "disappearance" are reported, a network of volunteers is alerted to press the authorities to reveal the whereabouts of the missing persons. It also launches special publicity efforts to ensure that the individual's fate remains a matter of public attention. In case of deaths, it campaigns by publicizing these incidents and pressing for independent investigations. It promotes adherence to the UN Code of Conduct for Law

Enforcement Officials, which lays down standards for police and security force officers.[34]

There are two very important features of this organization: that it is independent; and that it is government or state-centred.

Independent. Amnesty does not support or oppose any government, political system, or the views of the prisoners whose rights it seeks to defend. It addresses the rights issue involved in each case, regardless of the ideology of the government or the beliefs of the victims. It is not linked to any party or government, nor does it "take joint sponsorship of activities with other groups."[35]

Government Centred. Though it opposes torture and execution by *anyone*, including opposition groups, it holds that governments have the responsibility for dealing with such abuses, "acting in conformity with international standards."[36] This position was altered in 1991, when its International Council decided "to extend Amnesty International's work into cases where abuses are perpetrated by political opposition groups. In future . . . the movement will oppose hostage taking, the torture and killing of prisoners held by such groups, and other arbitrary killings for which they are responsible." Earlier such cases "fell outside its strictly defined terms of reference." But even with this new departure (opposing political groups), its central role remains that of a global watch-dog on violations of human rights by governments -- who, in Amnesty's view, "have specific obligations under international law to protect the rights of their citizens."[37]

Techniques of Data Collection and Action

Techniques include long term adoption of individual cases; publicizing pattern of the rights abuses; missions to talk to government representatives; or in cases where torture or death are feared, a network of volunteers to send urgent telegrams signalling international concern. Each technique (or a combination) is used "pragmatically to get results in the best interest of the prisoners."[38]

Information gathering. Amnesty's research department at the International Secretariat collects and analyses information from a wide range of sources: from governments, official and unofficial news media reports, local organizations, from prisoners and their families, refugee centres, religious bodies, journalists and other people with first hand information. It also sends fact-finding missions to countries, to observe trials and interview government officials. No source of information is ruled out on political grounds alone.[39]

To ensure accuracy, the credibility of all sources of information is carefully assessed. To protect the impartiality of research, staff do not have responsibility for decisions concerning their own country. Furthermore, to ensure the quality of its information, all public statements go through a series of vetting procedures, including legal scrutiny.[40]

In spite of all the precautions, mistakes do occur. For example, in a recent occurrence (in December 1994), Amnesty was forced apologize to the Indian government on an issue of a photograph on the cover of *Amnesty* with the headline, "Where India has turned Heaven into Hell." This photograph which purported to show a Kashmiri woman in mourning was challenged by the Indian government on the basis that the woman had the features of a South Indian and was wearing a sari, not usually worn by women in Kashmir. An Amnesty investigation showed that it was actually a Tamil Muslim visiting a shrine.[41]

Selection of Cases. All cases are assessed in the light of the mandate, and on their own individual merit. The organization makes its own assessment of the facts. For example, in deciding whether a person should be considered a POC, it is not bound to accept the assertion of a government, the interpretation of a court or the claim of the prisoner as to whether or not he or she has advocated violence. So if a person has been convicted of a violent criminal offence or has been accused of belonging to an organization which advocates violence, this does not necessarily prevent him or her from being considered a POC.[42]

Once a prisoner is "adopted," a campaign is started. Letters are sent to governments, embassies, leading newspapers, the prisoner's family and friends.

Public protests are organized and support mobilized. Money may be sent to pay for a defence lawyer and to help the prisoner's family.[43]

When Amnesty does not have enough information to be certain about the reasons for imprisonment, but where there are grounds to believe that the individual might be a POC, the case is taken up for investigation. The case is usually assigned to a group which is asked to write to the authorities to obtain further details, such as where the prisoner is held, what charges are faced, and what is the evidence against the prisoner. If such prisoners are being held without charge or trial, it may urge that they either be charged and given a fair trial or released. Only if it is clear that a case can be treated as that of a POC, does Amnesty "adopt" the prisoner and call unconditionally for his or her immediate release.[44]

Adoption. Amnesty employs the practice of adoption of prisoners by local groups who work on behalf of up to three prisoners -- writing letters on their behalf, making personal representation to officials, and publicizing details of each case. The adoption group is the central cog in the machinery: it might be based in a factory, a church, a university or a neighbourhood. A small group of people take it upon themselves to write letters to a prisoner, his jailer, the political authorities -- anyone who might be able to help get the prisoners released.[45]

To ensure impartiality, local groups are not allocated cases of prisoners in their own country. Neither do they collect or issue information on their own countries. Thus, no section, group or member has any responsibility for action taken or statements issued by the international organization concerning their own country. Groups are also not asked to work on cases in the countries which are in conflict with their own "when this could in any way jeopardize the prisoner in question or give the impression that Amnesty International is itself politically biased."[46]

Each case history is assessed by the research department in London before being allocated to a group. A degree of supervision is exercised over the conduct of the groups in handling each case -- in the form of advice and guidelines. Loose supervision and co-ordination is exercised by the International Secretariat, by each national office, and through a number of *ad hoc* co-ordination groups.[47]

Each group works on three cases selected and allocated on a basis of political and geographical balance: one "western," one "socialist," and one "third world."[48] Or one each from eastern, western, and non-aligned countries.[49]

Amnesty tries to maintain both regional and ideological balance in its selection of the prisoners of the month featured in each *Amnesty International Newsletter*. However, when it gets a significant amount of verifiable information about arbitrary detention from one ideological category, and very little that can be verified in another, considered to be an ideological opposite, it does not refrain from reporting what it does know in order to give the appearance of being balanced.[50]

Letter Writing. Letter writing by adoption groups is a basic activity. One government, replying to an appeal, said it had received 10,000 letters about a single case. Even though Amnesty "does not claim credit for the release of a single prisoner," it may be noted that of the more than 42,600 individual cases taken up since 1961, nearly 39,000 are now closed.[51]

Missions. Critically important though they are, the adoption groups and their letter writing and lobbying campaigns are not the only weapon in Amnesty's hands. The special mission is another important tool. Proposals for missions and suggested delegates are submitted to the International Executive Committee, which makes the final decision. Delegates are selected according to their specific experience. For example, the mission sent to India (in 1978) to collect evidence on what had happened during the Emergency and to look at safeguards was led by James Fawcett, president of the European Commission of Human Rights. He was chosen because of his experience of high level talks with of government officials. In other cases, lawyers familiar with the legal tradition of a particular country have been chosen. Since the 1970s, missions have often included a medical expert. Mission members, apart from Amnesty staff, are unpaid.[52]

Missions are subject to a strict set of rules. For example, no mission is allowed to enter a country clandestinely. No statement must be made to the press while the mission is in the country. This avoids undue pressure for a statement on their findings. A report is made on return to the International Executive Committee. A

memorandum is sent to the government with the findings and recommendations. In some cases, there are follow-up exchanges with the government about the interpretation of the law, more detailed information on prisoners and so on. Not all missions publish full reports. Some are not sent for the purpose of enquiry but rather to present Amnesty's point of view, as in the case of an execution, or to witness a trial to make sure it confirms to international standards. Sometimes missions are refused entry into a country.[53]

Relief Work. Amnesty provides relief to prisoners and their families in an effort to help them deal with the effects of imprisonment or, in some cases, to help prevent them becoming POCs or victims of torture or execution. This is in the form of money to prisoners and their families, medical supplies, books, funds for food and clothing, and occasionally for legal expenses. Relief is sent either directly or through local organizations. After release of prisoners, medical assistance may be provided by medical groups or doctors.[54]

Urgent Action. "Urgent action" is initiated for rapid intervention when lives are feared to be at risk. The International Secretariat alerts its network of members around the world, who then send letters, telexes, fax messages or telegrams to the target government. The first priority for urgent action is the well-being or safety of the prisoner or victim. In such situations, it becomes irrelevant if the action is balanced in terms of geo-politics.[55]

Publications. Amnesty, a fortnightly journal began publication in 1961.[56] It has been replaced by *Amnesty International Newsletter,* a monthly bulletin, which provides a regular account of the organization's work, the latest report on fact-finding missions, details of the arrest and release of political prisoners, reports of torture and executions; it frequently includes supplements and special features, highlighting particular patterns of abuse -- and testimony by prisoners from countries in various parts of the world.[57]

Since 1972-73, Amnesty publishes a yearly *Annual Report.* Each volume contains information about the situation of human rights in different parts of the world, including India. It also brings out reports on individual cases and on individual

countries. Between January and November 1993, for example, it had brought out 124 major documents on human rights violations in 69 countries.[58]

Structure and Functioning

In the early days, Benenson was able to accomplish a great deal on his own initiative, often through personal contacts . Missions and initiatives were often undertaken on his say so. There was little in the way of organization or administration, and budgets were small. Everything hinged on Benenson's own personality. Since he left Amnesty in 1967,[59] the organization works in a more formal way. It has its headquarters in London, called the International Secretariat. It has national sections, affiliated groups, individual and corporate members. The directive authority rests with the International Council.

National Sections. The consent of the International Executive Committee is necessary for the establishment of a national section. Each section must have (a) not less than two groups or ten members; (b) submit its statute to the International Executive Committee for approval; and (c) must pay an annual fee decided by the International Executive Committee.[60] National sections provide a focal point for action within their own countries, and a two-way liaison between their member groups and the International Secretariat. Thus each national section represents Amnesty's overall view-point while maintaining its own national identity.[61]

Membership. There are three kinds of membership: affilated, individual and corporate. Groups of not less than three members or supporters may, on payment of an annual fee determined by the International Council, become affiliated to Amnesty or to a national section. Such groups accept cases for adoption on Amnesty's direction. Individuals residing in countries where there is no national section may, on payment to the International Secretariat of an annual subscription -- become members. Where national sections exist, individuals may become members of Amnesty with the consent of the national section. Organizations may become corporate members, and are liable to pay an annual fee. The decision lies at the discretion of the International Executive Committee.[62]

International Council. Members of the International Executive Committee plus the representatives of national sections form the International Council. National sections may appoint one representative plus up to five more representatives to the Council.[63] This is the highest decision making body, and has the power to amend the statute.[64] The Council is bound to meet once every year. In no case should the gap between meetings be more than two years. All members of the Council have a right to vote in the meetings.[65] In 1991 over 400 participants from 70 countries came to the International Council meeting.[66]

International Executive Committee. This is a nine member committee, which consists of one treasurer, one representative of the staff of International Secretariat, plus seven regular members, who are elected by the International Council. The election is by the system of proportional representation and the method of single transferable vote. Not more than one member of any national section may be elected as a regular member of this Committee. The Committee is bound to meet at least twice a year. It is empowered to appoint a secretary general for the day-to-day functioning of the organization. It also appoints other executive and professional staff.[67]

The International Secretariat. The International Secretariat in London implements the strategy of the organization which is formulated in overall terms by the International Council in its annual meeting representing the national sections, and throughout the year by an International Executive Committee. The office of the secretary general is responsible for international diplomatic contacts.[68] The International Secretariat consisted of 70 persons in 1976.[69] By 1993, the number of paid staff had risen to 290.[70]

The Secretary General. The secretary general is the chief executive officer, and is responsible for the day-to-day functioning of the organization. The present secretary general (from October 1992) is Pierre Sane, a former regional director in West and Central Africa for the International Development Research Centre, a Canadian development aid organization. He was selected from more than 1,200 applicants from over 30 countries.[71]

Research Department. The research department instituted in 1971 is an integral part of the International Secretariat. It is subdivided into five geographical regions -- Africa, the Americas, Asia, Europe, and the Middle East.[72] This department is responsible for evaluating all incoming information. Its findings are translated by the programme department into campaign and group work through the national sections and local groups.[73]

There are some other departments as well. The secretary general's office and the legal department arrange missions, monitor laws, observe trials, and initiate negotiations with governments. The press and publication department produces reports.[74]

Table 3.1

Membership and National Sections

Year	Members	Sections
1979	168,000	30 plus
1988	500,000	44
1992	1,100,000	150 plus

Growth in Membership. By the end of the first year, there were Amnesty groups in Belgium, Greece, Australia, Sweden, Norway, France, West Germany, Ireland, Netherlands, Britain and the US.[75] The membership has grown steadily. Table 3.1 shows a phenomenal growth in membership and national sections, especially in the last few years.[76] Today it has "more than 1,100,000 members, subscribers, and regular donors in over 150 countries and territories with more than 6,000 local groups in over 70 countries." It is evident that Amnesty constitutes the strongest organized international human rights organization: it has also gained influence partly because of its size.[77]

Amnesty recognizes that if governments today take notice of its reports, it is "because they have already been subjected to months or even years of relentless pressure from groups of Amnesty International members." This also explains why it always seeks to expand its active membership. However, there are two rules governing individual members: a) No member who occupies a high post with any government or political party can at the same time hold a leading position in the organization; b) Members are not allowed to work on their own countries. These ensure that no pressure can be exerted on the members, nor can the organization be used for local political interests. However, members are free to work on their own countries "so long as this is done in a personal capacity or through some other organization."[78]

Funds. Amnesty's income derives from membership fees, donations, fund raising campaigns, sale of publications and contributions by groups. Each local group is asked to contribute up to and beyond a target sum set for each year; national sections contribute to the funding of international action through the International Secretariat. The national contributions vary according to the targets set by the sections themselves, reflecting their expected funding capacity for each coming year.[79] The Indian section, for example, currently pays £25 a year.[80]

At the end of first year (1961), Amnesty's expenditure was £6,040; in 1990, the budget had risen to £12 million;[81] and for 1993, it was £12.35 million. Approximately a third of this amount is expected to be raised during the year by the movement's national sections. This does not include funds needed to maintain the operation of national sections in individual countries or the cost of letters and telegrams sent by individuals.[82]

The budget is spent on professional research by staff, on delegations, publications, and campaigns. The average cost of launching an appeal in the case of torture or impending death is about £25 in fax and e-mail alone; the average cost of working on a case, including telecommunication cost, comes to about £400 per POC; a delegation or a mission on average costs approximately £2,300.[83] The International Council appoints an auditor to check the annual accounts. Annual Financial Reports are available for public inspection.[84]

Amnesty avoids over-reliance on any single source by the wide diversity of its contributors. Neither Amnesty nor any of the section or groups may receive any contribution from a single source which amounts to 50 per cent or more of their expected income for the year without special permission from the International Executive Committee.[85] No government money can be sought or received for Amnesty's budget; such contribution can be accepted only for humanitarian relief to prisoners and then only if administered by the organization itself.[86]

2. Amnesty's Work on India

One of the first prisoners of conscience in India for whose release Amnesty campaigned was Sheikh Muhammad Abdullah, the former prime minister of Kashmir, detained almost continuously between 1953 and 1968 for advocating Kashmir's right to determine its own future. However, it was not until the early 1970s that any significant or systematic work was undertaken.

Its involvement with India began in a major way with the publication of its report on jail conditions in West Bengal, first published in 1974. This was in the wake of Naxalites (see chapter 5 for a discussion of this term) or left-wing political activists and others being imprisoned indiscriminately. The report noted that there were about 15,000-20,000 prisoners for their "alleged involvement in left-wing political activities," and that 88 prisoners had been killed in 12 jail incidents. It further noted widespread allegations of torture.[87]

Since then, Amnesty has not published any report on prison conditions in India for it "is not a penal reform organization, nor does it seek to duplicate the efforts of other bodies more specifically concerned with prison inspection . . . Amnesty International may raise the issue in general terms in order to contribute to setting of improved standards for the treatment of prisoners. However, this is not normally a matter to which Amnesty International is able to devote its own limited resources."[88]

It has, nevertheless, published many reports dealing with specific aspects of rights concerns. These are detention without charge or trial, the systematic use of torture, and "disappearances" of political activists in "encounters" with the police. It has also been concerned about the continued use of the death penalty.[89] Major reports published include one on long-term detention of political suspects from Punjab, an analysis of special laws curbing human rights, a study on the death penalty, a review of caste-related rights violations in Bihar, and a study of torture and extrajudicial executions perpetrated by the army in the Northeast. In addition, it has issued numerous appeals to prevent executions of criminal and political prisoners.

Table 3.2.

Adoption Cases in Indian Subcontinent 1972-74

	1972		1973		1974		Total Active Cases: 31.12.1974
	New	Rel	New	Rel	New	Rel	
Bangladesh	1	-	27	3	13	18	18
India	9	2	7	3	4	11	14
Pakistan	31	9	42	62	26	12	21
Nepal	49	-	35	18	77	43	106
Sri Lanka	-	-	-	-	35	-	35
Total	90	11	111	86	115	84	184

Source: Amnesty International, *Summary of AI Adoption*, 1975.

Key to Table:
New = Number of new cases taken up
Rel = Number of prisoners released

The number of adoption cases in India has gradually increased. Table 3.2 is provided in an Amnesty document,[90] which notes that figures are virtually non-

existent for the period preceding 1972. Although adoption work was undertaken during that time, statistical records were kept only after the appointment of a new researcher in 1971 who started systematic work on the area.

The cases taken up after 1971 in the subcontinent reflect mostly the problems resulting from the aftermath of the Bangladesh War (1971). This holds for all countries except Nepal and Sri Lanka where the cases primarily related to the problems of internal dissent. In India, refugees from East Pakistan were detained in normal prisons or in camps for civilian detainees. The figures also reflect the 1974 Railway strike in India.

Amnesty reports for the early 1970s (1970-74) indicate its concerns about civilian detainees in Indian Prisoner of War camps. Nearly 17.000-18,000 people were held under preventive detention laws in West Bengal on allegations of Naxalite activities; they were arrested under the Maintenance of Internal Security Ordinance (later an Act), which was passed in early 1971. Almost 30,000 people (most of them trade unionists) were held the same laws as a reaction to the first general railway strike (8-27 May 1974). Amnesty protested against arrests of people "for exercising what are generally recognized as legal trade union rights." The International Secretariat organized an Urgent Action campaign to demand the immediate release of all prisoners. Amnesty noted that it was "confronted by imprisonment on a larger scale than in any other part of the world. While taking up individual cases, an important part...of work has been to exert pressure on governments to grant amnesties to large groups of prisoners."[91]

With the imposition of a state of Emergency in India (June 1975-March 1977), Amnesty's work grew rapidly. Most of the opposition leaders were arrested, including the 72-year old, veteran Gandhian leader Jayaprakash Narayan. Others such as Morarji Desai (79 years old, former deputy prime minister), Chandra Sekhar, Ram Dhan, L. K. Advani, Charan Singh, and George Fernandes were also detained under preventive detention laws, which provided for detention without trial. Emergency also meant total censorship of press and suspension of all fundamental rights. On 4 July 1975, twenty-six political parties were banned. Government refused to give the names of prisoners arrested under preventive detention laws. Amnesty mounted a worldwide campaign to urge the release of

thousands of prisoners, and set up action groups with especial responsibility for India -- to collect data on the Indian situation, mobilize public opinion in their own countries, and to write letters.[92]

Access or Visits to India

An Amnesty mission visited India in 1978, after the end of the Emergency. But its role during the Emergency ensured that it would not be allowed into the country once Indira Gandhi (or the Congress party) came back to power. She came back to power in 1980.[93] All subsequent requests to visit India and discuss its concerns or carry out research were refused by the government -- until 1993. Amnesty proposed visits in April 1984, January 1985, March 1985, November 1986, November 1987, and March 1989, but the government never responded. It was also refused permission to carry out research in Bihar, Andhra Pradesh, Maharashtra, Madhya Pradesh, Gujarat and Punjab.[94]

However, during this period, Amnesty representatives were allowed to attend four international meetings in India on matters not relating to India, and to meet representatives of rights groups in various states. One such occasion was the World Congress on Human Rights, held in New Delhi in 1990.[95]

When a non-Congress government took office in December 1989, Amnesty was almost allowed into the country. It wrote to Prime Minister V. P. Singh (on 1 March 1990) for permission to visit India. As a result, Home Ministry announced on 28 June 1990 that all restrictions on Amnesty's visits to any part of the country were lifted. However, only five days later (on 3 July 1990), it was announced that it could only enter India for "private visits." According to Amnesty:

> Government announcement came shortly after the former Prime Minister Rajiv Gandhi had strongly criticized the government for lifting the ban on Amnesty International's entry to India. On 2 July, he called on the members of the Youth Congress Party to prevent the organization from entering India and visiting Jammu and Kashmir. He was quoted as saying, 'Take to the streets, stage a sit-in on the airport but on no account should you let Amnesty International investigators enter the country.'[96]

In 1992, Amnesty published a report, *India: Torture, Rape and Deaths in Custody,* which received widespread media coverage.[97] During the same year, it also launched an "India Campaign" focussing on rights abuse by governmental agencies. This caused the government -- for the first time -- to respond to some of the allegations of abuse, and led to discussions with the organization. As a result, an Amnesty team was finally allowed entry into India in 1992 after a gap of 14 years. It was a four-member team led by former secretary general, Ian Martin. The team was not allowed to visit Punjab, or Jammu and Kashmir, or allowed access to official information. While the government provided some information on 400-odd deaths, the team was not allowed to meet senior police or para-military officials, except "to socialise informally at a dinner hosted by Ministry of Home Affairs" with them.[98] This, however, paved the way for a fact-finding mission in January 1994 -- to investigate communal riots in Bombay.[99]

In spite of obstacles in visiting the country, how has it been possible to publish so many reports on India? There seems to be some truth in the suggestion that it is easier to obtain substantiated information from India than some other countries. The flow of information is due to a relatively free and independent media, especially the print media. Additionally, a large number of Indian organizations continuously pass on information to Amnesty.[100] As the former president of Andhra Pradesh Civil Liberties Committee told me: "Anything happens here -- just fax it. Nothing remains here."[101]

Amnesty recognizes that it cannot compensate for the fact that in a number of countries censorship, fear and political isolation make it virtually impossible for a steady flow of comprehensive information about political imprisonment to reach the outside world. It further recognizes that "it may be necessary to work on behalf of prisoners in countries where there are a large number of well documented violations of human rights, even if it is not in a position to launch similar action elsewhere for the lack of substantiated information." For this reason, it does not rank countries on a "human rights scale."[102]

Credibility and Relevance

A South Asian Regional Conference, held in New Delhi, in March 1975, was the first conference of Amnesty members to be held outside Europe.[103] This conference discussed some of the problems faced by the organization in "third world" or "developing" countries like India. Subsequently, Amnesty prepared a report, which addressed some basic questions, relating to its image, credibility, and relevance.

Amnesty was concerned that it had acquired a negative image in many countries as a Western European organization,[104] as an "Anglo-American prisoner organization,"[105] or suspected "of being an extension of the former colonial powers," which "seeks to offer moral and material support without tackling the underlying social roots of the issues." Such an image seemed to present difficulties for both its membership in these countries and for the organization's work for prisoners detained in these countries.[106]

Further, its apparent concentration only on the limited framework of "individual" human rights was seen as irrelevant to aspects of social justice -- for in the largely rural areas of the region, mass violation of human rights occurred because of arbitrary police action and economic exploitation, outside of the courtrooms and prisons. To establish its credibility in the Third World, Amnesty had to become more obviously relevant to these problems or the different character of repression in these countries.[107]

To make the organization more relevant to India (and other third world countries), it decided to follow policies of multilingualism, recognize cultural diversity, and take up educative programmes.

It was decided to establish a South Asia Publication Service in Colombo. One of its functions would be to translate basic organizational documents into local languages wherever possible, reprint and distribute *Newsletter*, and follow a "policy of multi-lingualism."[108] It was also decided to make the organization more culturally diverse. For example, members send cards to prisoners at

Christmas. Since not all POCs are Christians, it was decided to ask members to send cards to Muslims at *Id*, to Hindus at *Diwali*, to Buddhists at *Wesak*, etc.[109] An important aspect was "conscientization" in the field of human rights. It was resolved to pursue a programme of "functional literacy in human rights" to provide peasants and other oppressed groups with a rudimentary knowledge of basic minimum legal safeguards so that they could defend themselves on the spot against arbitrary action of the police (such as arrests without warrants).[110]

While Amnesty has been able to follow its programmes of multilingualism and cultural diversity in India as these depend on action taken outside the country, it has not been able to achieve anything in the area of functional literacy, as in this work the active co-operation of its Indian national section was vital, which has been preoccupied with its own organizational problems.

3. The Indian Section

The first Indian group was started in 1968 by Mridula Sarabhai, A. C. Sen and others.[111] After the Emergency in 1977, a membership drive was undertaken, and by the end of 1981, there were about 1000 members all over the country in eleven branches, and six adoption groups.[112]

The Calcutta branch, formed in 1980 and recognized as such in 1981, was the most active of the branches.[113] Most of the people who joined had some pervious experience of human rights activities in West Bengal. This included Niranjan Haldar, the first secretary of the branch. The membership was not confined to the urban, educated middle-classes of metropolitan Calcutta, but extended to the districts and the rural areas. The Calcutta branch established groups in Midnapore district and Jhargram. This necessitated the branch to publish its literature in two regional languages, Bengali and Santhali, beside English.[114]

The branch was run by an elected executive committee, which consisted of a president, two vice-presidents, secretary, two assistant secretaries, one treasurer and five other members. It organized various activities throughout the year:

processions, exhibitions, talks, discussions and seminars, and even made efforts to introduce human rights education in schools.[115]

In 1985 a decision was taken to restructure the Indian section. Up till this time the section had worked on the principle that individual membership and action was more suited to Indian conditions rather than working through groups. This principle had been recognized by Amnesty in 1975:

> In the particular political, social and economic conditions of the area, adoption groups would be impracticable, requiring coordination and communication facilities which are seldom available in these countries. Individual membership and individual initiatives on behalf of prisoners would be more viable forms of participation.[116]
>
> Throughout the Third World, the economic and social conditions demand different forms of organization . . . The adoption group is an expensive, time-consuming unit: it requires finances and facilities beyond the reach of the people in less affluent countries.[117]

But now the branches were dissolved, and replaced by groups. By 1986, when Bangalore was host to an Asia Regional Meeting, attended by representatives from seven countries, there were about 800 active members and 130 associate members in thirty groups all over the country: five in Delhi, four in Bangalore, four in Calcutta, five in other parts of West Bengal, four in Andhra Pradesh, three in Uttar Pradesh, three in Tamil Nadu, and one each in Bombay and Patna. During this time, there was also a Medical Group in India.[118]

Structure of the Section

Office Bearers. The Indian section is run by office-bearers elected by a general body meeting. There is an eleven member executive committee. This consists of a president, two vice presidents, a secretary, a treasurer, and six other executive members. The executive committee has powers to co-opt two more members.

A general body meeting is held once every year. The executive committee meets at least three times, more often if necessary. These meetings are difficult to organize as members live in different parts of the country.

Paid Staff. Elected office bearers are not paid. However, the Indian section has always had two or three paid staff for secretarial work. In 1990-91 there were two, at times three paid staff. In 1994, there was one paid staff, an office secretary.[119]

Membership. Members join in their individual capacities. They can either become active members by paying Rs. 50 per year, or associate members by paying Rs 75 per year. Associate members usually do not participate in the affairs of the organization, nor do they have voting rights; they however receive *Amnesty Newsletter* and other information from time to time. As Amnesty works through groups, each individual member must also become a member of a group. Each group (of not less than five members) pays Rs. 250 per year as fees. This is in addition to the individual membership fees of Rs. 50 per year. Members have the option of joining any group they wish. However, each group must be approved by the Indian section as well as the International Secretariat.[120] The groups are important for two reasons: firstly, all work is done as part of a group; and secondly, more groups means more money for the organization.

Crisis in the Section

1986 seems to have been the high point in the life of the Indian section. The membership was large; it was quite well organized; and it had an office in New Delhi. But within two years things began to go wrong.

The problems arose as there were two groups within the Indian section who wanted effective control of the organization. According to Maitryee Chaudhury, who became secretary in 1992, "since 1988-89 there was a big disintegration in the section, too much groupism and fighting." Consequently, since 1988-89, the section has been busy with its own internal in-fighting.

Organizational problems during this period related to misuse of funds, and accepting funds from abroad; allegations that expensive office equipment (like computers and printers) had been removed from the office. "After 1988, foreign funds started coming . . . office equipment . . . they have distributed among themselves."[121] (However, the current president denied these allegations.)

Charges and counter-charges between the two warring groups fighting for supremacy within the organization also led to at least two court cases. On the basis of instructions from the High Court, elections for 1988 were held on 9 January 1993 (with retrospective effect). Maityree Chaudhury took over as secretary. Her task was to update the membership list and hold elections within a year. This was a difficult task as the two warring groups wanted to fill in the membership list with their supporters in order to win the elections. Elections were scheduled for 12 December 1993. Prior to the elections. both the groups alleged that there were a lot of bogus members in the list, and threatened to move the courts once again. But then just before the actual polling, "one group withdrew letting another group seize power."[122] With this voluntary withdrawal of one faction, the problem was apparently solved.

During this period of strife, the Indian section defaulted in paying rent for its office in South Extension (a posh residential area in New Delhi) to the tune of about Rs. 40,000. Its office has been shifted twice since then, and is now located in the outskirts of New Delhi, where the rents are much lower.

Table 3.3

Members and Groups in Amnesty, Indian Section

Year	**Members**	**Groups**
1988	1400	38
1992	200-300	2
1993	500-600	11
1994	1500	34

In 1993, there was also some internal fight in the organization about representing the Indian section at an International Council meeting in Boston, USA (held in August 1993). The fighting was particularly ferocious since the International Secretariat was paying for two persons to attend the meeting. The situation was summed up by the then secretary: "People simply want to go abroad and take Amnesty's money."[123] Finally one of the persons who received money for the journey did not go to the meeting at all; and another person who went to the meeting has still not been reimbursed the air-fare.

Table 3.3 gives the number of members and groups in India. Most are active members, only very few in each case are associate members. The figures must be interpreted with caution. The earlier figures were provided by Maitryee Chaudhury, who is antagonistic towards the current office-bearers. The 1994 figures were provided by the current president of the Indian section, who wants to project the organization as a thriving and vibrant one.[124]

Activities. The groups apparently write letters, and work on cases from Indonesia, Thailand, and South America. Each group may also adopt an individual country. A list of countries to choose from is sent to the groups by the International Secretariat.[125] In accordance with rules, the Indian section does not take up cases from Pakistan;[126] it has also not done any work on neighbouring countries like Sri Lanka, Bhutan, Nepal, and Bangladesh.[127]

As no work can be done by the Indian section on India, it has no links with any of the Indian organizations, nor do they ever work together on any cases or projects.[128] This makes the Indian section very marginal to the Indian human rights scene.

Conclusion

It is from particular instances of named prisoners and their specific cases that Amnesty reaches outward to the general problems of political imprisonment, torture and the death penalty, and to other related human rights concerns. It has a

limited mandate, and is state-centred. Its work on India is significant both in terms of volume and in terms of raising important issues. Its persistence has finally paid off as the Indian government has responded to its criticisms, and thus recognized its responsibility for human rights abuses in the country. Here lies Amnesty's most important contribution.

The Indian section, however, has made no significant contribution to the rights scene. It appears to have become more of an instrument for personal aggrandisement, fought over by a few persons. Its in-fighting has brought a bad name to the parent organization. It is indeed fortuitous that it has no responsibility for India -- for then its activities would have been known not just to the rights activists in the country but to the general public at large.

The contradiction is at two levels. Firstly, while Amnesty's contribution to the Indian human rights scene is unparalleled, its Indian section can hardly be attributed with any meaningful initiative. Secondly, whereas a section of a international organization has been unsuccessful, the Indian organizations have done much better.

Finally, it must be said that Amnesty's success has been considerably due to its ability to effectively use the information provided by various Indian rights organizations. The next two chapters will look at some these organizations.

NOTES

1. It has formal relations with United Nations Economic and Social Council (ECOSOC); the United Nations Educational, Scientific and Cultural Organization (UNESCO); the Council of Europe; the Organization of American States; the organization of African Unity; and the Inter-Parliamentary Union. Amnesty International, *India: Torture, Rape and Deaths in Custody,* London: AI, 1992, front inside cover. AI Index: ASA 20/06/92.

2. Jonathan Power, *Amnesty International: The Human Rights Story,* Oxford: Pergamon Press, 1981, p. 12.

3. AI, *"What Makes Amnesty International Work?"* Text based on talks given by A. Blane, Colombo: AI Publications, 1984, p. 4. MS. 34/4/5/57.

4. Charles Freeman, *Human Rights,* London: B. T. Batsford Ltd., 1988, p. 59; AI, *Amnesty International, 1961-76: A Chronology,* London: AI 1976.

5. Peter Benenson, *Persecution 1961,* Harmondsworth: Penguin, 1961, jacket of the book; Power, op. cit., p. 10.

6. Power, op. cit.

7. Ibid.

8. Peter Benenson, "The Forgotten Prisoners," in *The Observer Weekend Review,* 28 May 1961. MS 34/4/5/13.

9. Peter Benenson, "Amnesty -- The First 25 Years," in *The Observer,* 25 May 1986.

10. Power, op.. cit.

11. Benenson, *Persecution 1961,* op. cit., p. 151.

12. The three MPs were: John Foster (Conservative), F. Elwyn Jones (Labour), and Jeremy Thorpe (Liberal). Benenson, "The Forgotten Prisoners," op. cit.

13. Power, op. cit., p. 11.

14. Benenson, *Persecution 1961,* op. cit., p. 151.

15. AI, "Amnesty International: How Does It Work." London: AI, January 1976. Leaflet. MS. 34/4/5/8.

16. Power, op. cit., p. 13.

17. Sean MacBride was a lawyer, a founder of the Irish Republican Party; Foreign Minister of Eire, and the only person to have won both the Lenin Peace Prize and the Nobel Peace Prize. He helped AI establish many high level contacts. Power, op. cit., p. 12.

18. AI, "Amnesty International: The Idea that Became a Movement." London: AI, November 1991. AI Index: ORG 10/04/91. MS. 34/4/Misc.106.

19. For the full text of the amended statute, see AI, *Amnesty International: Policy Manual 1992,* London: AI, p. 1. AI Index: ORG 20/03/92; for an earlier version see AI, *Annual Report,* 1977, p. 13; David Selby, *Human Rights,* Cambridge: Cambridge University Press, 1987, pp. 66-67.

20. According to AI standards for trials must conform to established international and national procedures; be independent of government authorities; must take place in a reasonable time; no one should be put in custody awaiting trial; there should be no torture or communication restriction; there should be proper right to defence, and sentence should be open to review by a higher court. AI, *What Does Amnesty International Do?* London: AI, 1985, p. 11. Booklet.

21. Ibid., p. 3.

22. The Mandate Review Committee was a number of "experienced individuals from individual national section." It finished its work in 1991. Thereafter, a standing Mandate Review Committee was set up. Roger Clark, "The Evolution of the Mandate," *Internet, Amnesty Gopher,* 8 December 1994; also in *AI Bulletin AICS (ES)* vol 19, No. 1.

23. AI, *What Does AI Do?* op. cit., p. 5.

24. The accusation that dissenters have been involved in violence is one of the arguments most frequently used by governments in response to expressions of concern about POC. Ibid., p. 5-9.

25. Ibid., p. 8-9.

26. Ibid., p. 9-10.

27. Ibid., p. 10.

28. AI, *"What Makes Amnesty International Work?"* op. cit., p. 2.

29. Power, op. cit., p. 13.

30. AI, *What Does AI Do?* p. 18.

31. AI, *Making Amnesty International Worldwide,* London: AI, 1 October 1975. MS. 34/4/5/4.

32. AI, *What Does AI Do?* p. 11-13.

33. Ibid., p. 16.

34. Ibid., p. 20.

35. AI, "Amnesty International: Independence and Impartiality," London: AI, 1985, p. 2. Pamphlet.

36. AI, *What Does AI Do?* inside back cover.

37. AI, "The Idea," op. cit., p. 4.

38. AI, "Independence and Impartiality," p. 3.

39. Ibid., p. 2; AI, *What Does AI Do?* p. 1.

40. AI, "Independence and Impartiality," p. 2.

41. It must be noted that *Amnesty* is a journal of the British section of Amnesty International. See "Amnesty Suckered Again?" On the *Internet,* soc.rights.human,

8 December 1994; "AI Says Sorry to India Over False Photograph," On the *Internet,* soc.culture.indian, 23 December 1994.

42. AI. Independence and Impartiality," p. 4.

43. AI, "Amnesty International: Your Questions Answered." London: AI, December 1977. Pamphlet. MS. 34/4/5/20.

44. AI, *What Does AI Do?* p. 5.

45. Power, op. cit., p. 21.

46. AI, "Independence and Impartiality," p. 4.

47. Marguerite Garling, compiler, *The Human Rights Handbook: A Guide to British and American International Human Rights Organizations,* compiled for the Writers and Scholars Education Trust, London and Basingstroke: The Macmillan Press Ltd., 1979, p. 9.

48. AI, "How Does It Work," op. cit.

49. AI, "Your Questions Answered," op. cit.

50. AI, "How Does It Work," op. cit; AI, "What Makes AI Work?" op. cit., p. 16-17.

51. AI, "The Idea," op. cit., p. 4.

52. Power, op. cit., p. 27.

53. Ibid.

54. AI, *What Does AI Do?* op. cit., p. 22-23; Power, op. cit., pp. 28-29.

55. AI, "The Idea," op. cit; AI, "Questions and Answers: Criticism of Amnesty International's Impartiality," London: AI, 23 October 1978, p. 4. AI Index: ACT 01/12/78, MS. 34/4.5/36; AI, *Amnesty International Handbook,* London: AI, 1992, AI Index: ORG 20/2/92, p. 100.

56. Benenson, *Persecution 1961,* op. cit., p. 151.

57. AI, "What Makes AI Work," op. cit., p. 16.

58. AI, "Facts and Figures," op. cit.

59. Power, op. cit., pp. 17-18.

60. AI, "Statute of Amnesty International." As amended by the 8th International Council Meeting in St. Gallen, Switzerland, 12-14 September, 1975. MS. 34/4/5/5.

61. Garling, op. cit., p. 10.

62. AI, "Statute of AI," op. cit.

63. National sections may appoint one representative, plus up to five more representatives according to the formula given below:

10-49 groups =	1 representative
50-99 groups =	2 representatives
100-199 groups =	3 representatives
200-399 groups =	4 representatives
400-over groups =	5 representatives

OR

500-2,499 individual members = 1 representative
2,500 and over = 2 representatives

64. This can be done by a majority of not less than two-thirds of the votes cast. The quorum is constituted by representatives or proxies of not less than one-fourth of the national sections entitled to be represented. AI, "Statute of AI," op. cit.

65. Ibid.

66. AI, "The Idea," op. cit., p. 4.

67. AI, "Statute of AI," op. cit.

68. Garling, op. cit.

69. AI, "How Does It Work," op. cit.

70. AI, "Facts and Figures about Amnesty International and Its Work for Human Rights," On the *Internet, Amnesty Gopher,* 20 October 1993. AI Index: ORG/10/04/93.

71. AI, "New Secretary General," *News Release,* London: AI, 18 June 1992.

72. AI, "What Makes AI Work," op. cit., p. 9.

73. Garling, op. cit., p. 11.

74. AI, "Your Questions Answered," op. cit.

75. Power, op. cit., p. 12.

76. Garling, op. cit., p. 7; Freeman, op. cit.. p. 59; AI, 1992: The figures for 1979 and 1988 are of "members"; the figure for 1992 includes "members, subscribers and regular donors."

77. AI, "Questions and Answers," op. cit., p. 7.

78. AI, "What Makes AI Work?" op. cit., pp. 9-17.

79. Garling, op. cit., p. 11.

80. S. S. Nehra, Interview with author. New Delhi, 15 March 1994. Tape recording.

81. AI, "The Idea." op. cit.

82. AI, "Facts and Figures," op. cit.

83. Ibid.

84. AI, "Statute of AI," op. cit.

85. AI, "What Makes AI Work?" op. cit., p. 20.

86. AI, Independence and Impartiality, op. cit.

87. AI, *Short Report on Detention Conditions in West Bengal Jails.* Prepared by the research department of Amnesty International on the Basis of newspaper reports and individual statements made to Amnesty International, September 1974, Reprinted, London: AI, 1977. MS. 34/4/1 ID3, pp. 1-9.

88. AI, *What Does AI Do?* op. cit., p. 17.

89. For example, see, AI, *Special Action Against the Death Penalty in India,* London: AI, 6 October 1980. AI Index: ASA 20/04/08, MS. 34/4/1/ID7. AI was concerned at a Supreme Court decision of 9 May 1980 upholding the constitutional validity of the death penalty. It urged the president to use his powers of clemency under Art. 72 of the Indian Constitution.

90. AI, "Summary of Amnesty International Adop.tion/Investigation Cases, 1970-74." South Asia Regional Conference of Amnesty International, New Delhi, 20-23 March 1975, p. 1. MS. 34/4/4/1.

91. AI, "Amnesty International's Work for Prisoners in Bangladesh, India, Nepal, Pakistan and Sri Lanka: Extracts from the Annual Report of Amnesty International 1970-74." London: AI, 1974. MS. 34/4/4/2.

92. For a details of AI campaign, see AI, "Action Campaign on Behalf of Prisoners of Conscience Arrested on a Large scale in India." (From Asia Research Department to all National Sections), London: AI, 11 July 1975, pp. 1-6. AI ref: NS. 118.

93. She was succeeded in 1984 by her son, Rajiv Gandhi, who was prime minister till 1989. For brief periods, V. P. Singh and Chandra Sekhar were non-Congress prime ministers, before Congress came back to power in 1991, with Narashima Rao as prime minister.

94. AI, "India: AI Access." Weekly Update no. NWS. 11/39/90, London: AI, 4 October 1990. AI Index: ASA 29/WU 04/90. MS. 34/4/1/ID47.

95. The Congress was held in New Delhi from 10-17 December 1990. The AI delegates were: Bacre Waly Ndiaye, Vice Chairman of the International Executive Committee; Ian Martin, Secretary General; and Yvonne Terlingon, International Secretariat staff member. AI was represented on the steering committee of the World Conference by its Indian section President, Arun Mehta. AI, "Weekly Update," NWS 11/48/90, London: AI, 6 December 1990. MS. 34/4/1/ID50.

96. AI, "India: Government Qualifies Lifting of Ban on Amnesty International Visits." London: AI, 5 July 1990. AI Index: 20/ WU 03/90.

97. AI has compiled some of the press coverage in a document, "Press Coverage of Amnesty International's Report: *India: Torture, Rape and Deaths in Custody,*" London: AI, October 1992. AI Index: ASA 20/36/92.

98. W. P. S Sidhu, "Back on Speaking Terms: Government Starts Coop.erating With Amnesty," in *India Today,* International edition, 15 December 1992. p. 18.

99. The team also met government ministers and senior officials in the Home Ministry. *The Times of India,* New Delhi, 23 January 1994, p. 14.

100. For a list of such organizations, see AI, *India: Torture, Rape and Deaths in Custody,* op. cit., pp. 8-9.

101. K. G. Kannabiran, Interview with author, Hyderabad, 19 December 1993. Tape recording.

102. AI, "Questions and Answers," op. cit.

103. AI, "Making AI Worldwide," op. cit., p. 2.

104. AI, "Amnesty International in the Third World," Prepared by Richard Roech and Jane Ward, London: AI, 18 July 1975. AI Index: NS 134. MS. 34/4/9/3. p. 2.

105. AI, "Making AI Worldwide," op. cit., p. 1.

106. AI, "AI in the Third World," op. cit., p. 2.

107. Ibid.

108. AI, "Making AI Worldwide," op. cit., p. 2.

109. AI, "AI in the Third World," p. 4.

110. Ibid., pp. 4-5.

111. Maitryee Chaudhury, Interview with author. New Delhi, 23 February 1994. Tape Recording.

112. AI, Indian Section, *Delhi Groups Commemorate the Twentyfifth Year of Work for Prisoners of Conscience, Abolition of Torture and the Death Penalty: With an Exhibition of Posters,* New Delhi: AI, 26 October 1986, p. 11.

113. AI, Calcutta Branch, *Human Rights Documents,* Calcutta: AI, February 1983, p. 18.

114. AI, Calcutta Branch, *Human Rights Violations in 121 Countries, Amnesty International Report, 1982: A Summary. 1982,* Calcutta: AI, pp. 7-10; AI, *Human Rights Documents,* op. cit., p. 18.

115. It constituted a "Committee on Education for Human Rights" with Fr. Joseph A. D'Souza, the principal of St. Xavier's College as its co-ordinator. Ibid.

116. AI, "Making AI Worldwide," op. cit., p. 2.

117. AI, "AI in the Third World," op. cit., p. 3.

118. AI, Indian Section, *Delhi Groups Commemorate,* op. cit., pp. 11-13.

119. Nehra, interview.

120. Chaudhury, interview.

121. Chaudhury, interview.

122. N. D. Pancholi, Interview with author, New Delhi, 1994. Tape recording.

123. Chaudhury, interview.

124. Chaudhury, interview.

125. Chaudhury, interview.

126. Nehra, interview.

127. Chaudhury, interview.

128. Nehra, interview.

4

National Organizations

In this chapter I describe and discuss six national level organizations: Citizens for Democracy (CFD), People's Union for Civil Liberties (PUCL), People's Union for Democratic Rights (PUDR), Peoples' Rights Organization (PRO), Indian People's Human Rights Commission (IPHRC), and All India Federation of Organizations for Democratic Rights (AIFOFDR) (see Table 4.1). CFD and PUCL are national level organizations in the sense that they have branches all over the country; PUDR and PRO are primarily Delhi-based but take up cases from all parts of the country; similarly IPHRC's concern is nationwide; and AIFOFDR is a federation of different organizations.

Table 4.1

National Organizations

Organization	**Place**	**Date of Establishment**
CFD	Delhi	13-14 April 1974
PUCL	Delhi	22-23 November 1980
PUDR	Delhi	March 1981
PRO	Delhi	11 March 1986
IPHRC	Bombay	19 October 1986
AIFOFDR	Bombay	1 June 1982

In discussing these organizations, I detail their origins and histories, their nature and aims, and the way they are structured and function. It is striking that in comparison to Amnesty International these organizations have informal structures with emphasis on voluntary work. I also focus on some important issues surrounding their relationship with political parties, attitude towards funding, scope of their concerns, e.g. if they are individual or group oriented, and how they have expanded their activities. They were first established in response to specific political developments and had limited agendas; it was only gradually that it they were expanded. But first, let me outline the political situation in the early 1970s, when these organizations began to be formed.

Politics in the Early 1970s

As I have already noted in chapter 2, faith in the practice of parliamentary democracy began to be shaken by late 1960s. Some leading individuals like Jayaprakash Narayan (JP) had begun to apprehend growing authoritarian tendencies in the ruling Congress party, especially in the personality and policies of Indira Gandhi which tended towards centralization of power. What were perceived to be illiberal policies of the government (restriction of fundamental rights, attack on the independence of the judiciary and on the freedom of the press) led them to think in terms of a countrywide movement against the emerging authoritarian trends.

In 1971, Indira Gandhi was at the height of her populist phase, and after her success in the parliamentary elections of February 1971, formed her government in March 1971. The main reason for this election, according to her, was to undo the decision of the Supreme Court with regard to Fundamental Rights. She proposed "a constitutional amendment that would have forbidden the courts from ruling unconstitutional on the grounds of violation of the Fundamental Rights any legislation declaring as its aim the fulfilment of one of the Directive Principles."[1] According to Tarkunde, the policies of the government were designed to "restrict the scope of fundamental rights guaranteed by the Constitution and to make a calculated attempt to erode the independence of the judiciary and the freedom of

the press."[2] Her hostility to the judiciary was evident in her threat (which was actually carried out later) to supersede judges of the Supreme Court.[3]

This was a period when two important protest movements were launched. The Navnirman Andolan (nav=new, nirman=to build, andolan=movement) of Gujarat began in January 1974. Initially it focussed on economic issues, but within three months its focus shifted to political issues, and more specifically to corruption in politics. Similarly, the "JP Movement" (so called as Jayaprakash Narayan became the leader of this movement in March 1973) in Bihar focussed on issues like corruption and electoral reforms. The immediate aim of these movements was to "save democracy," and the final objective was "total revolution." These movements came to a halt when most of the leaders and activists were detained under preventive detention laws after the declaration of Emergency on 25 June 1975.[4]

1. Citizens for Democracy (CFD)

Citizens for Democracy was formed by JP, Tarkunde and other Gandhians (followers of Gandhian ideology) in order to "save democracy." In a meeting of Sarvodaya workers[5] held in Bangalore in July 1972, JP advocated that "a broad-based organization should be formed for the preservation and strengthening of democracy in India and that the organization should consist of all those who cherished democratic values but were not interested in power politics."[6] The same year, Tarkunde, who had earlier helped form the Radical Humanist Association (RHA),[7] in a public meeting in Calcutta announced his intention to form an organization on a non-party basis for the protection of democracy in the country.[8] There were other eminent jurists and public figures like M. C. Chagla, Nani Palkhiwala, and C. T. Daru who were also in favour of forming an organization to mobilize and educate people about democratic norms. The intention was to raise political issues, participate in political debates, and build up public opinion without engaging in power struggle themselves.[9]

JP and Tarkunde met in Delhi in September 1972 and decided to form a non-party organization. While a committee was formed to draft a constitution, Tarkunde

travelled to different parts of the country to establish local committees.[10] These were formed in Delhi, Bombay, Madras and Calcutta,[11] and discussions were held about the nature and aims of the proposed organization. Various names for the new organization was suggested including League of Democrats. Finally, in an all-India conference (an open, public meeting) convened in Delhi on 13-14 April 1974 to formally establish the organization, the name Citizens For Democracy was approved, and a constitution adopted.[12] JP was elected the president, Palkhiwala the vice-president and Tarkunde the general secretary.[13]

Nature, Aims and Activities

CFD defined its aims very broadly as "preservation, defence and strengthening of democracy, and defending civil liberties." Its immediate concern was the decline of moral standards and the rise of corruption in the political culture. The president said:

> Democracy as a system is rooted in political morality and we can take it that the success -- nay the survival -- of democracy would ultimately depend upon the prevalence of and adherence to moral values therein."[14]

The organization saw its role as "an extra-legislative, responsible opposition,"[15] opposing governmental policies if they were deemed detrimental to people's interests. To this end its work would be political, but on a non-party basis.[16] To ensure that the organization would be free of politicians, its constitution had two very important clauses. Firstly, office bearers of political parties were debarred from becoming members; and secondly, though members of political parties could join the organization, they were debarred from becoming its office bearers.[17]

It emphasizes that the "protection and stabilization of democracy requires the education of the people in the basic values of democracy and that this educative work cannot be done by political parties."[18] It believes that educational transformation must form an essential part of a movement for social transformation, and has accordingly prepared a framework for educational reform in the country.[19] Its emphasis on education is related to its long-term aim of total revolution.

The notion of *sampoorna kranti* or total revolution was advanced by JP, who believed that India was a weak and unstable democracy. As this democracy was largely confined to the political sphere, it was necessary to extend this limited democracy to all aspects of life. Total revolution could not be brought about "from above by a party coming to power and utilizing it for an economic transformation of society, (but) from below by propagating the values of liberty, equality and fraternity and developing people's power on the basis of these values."[20] Following the advice of JP, total revolution was to be achieved by the strategy of propagating democratic values among the people through grassroots organizations, especially in the rural and tribal areas.[21] These ideas were conceptualized in terms like *lok samitis* (peoples' committees) and *lok shakti* (peoples' power).

Lok samitis were to be formed at local levels in towns and villages. Study camps would prepare workers who could then help people to set up local committees.[22] The strategy through education and building up of lok samitis was

> to awaken the people and generate Lok Shakti or Peoples' Power and build up a national movement . . . (since) now a large number of people had begun to question the rulers which showed that awareness in the people was growing and they were becoming conscious of their rights as well as responsibilities."[23]

The notion of total revolution, however, has not really been taken up with earnest. It remains more at the realm of ideology. CFD often finds itself occupied with immediate issues and is unable to take steps for its long-term objective.[24]

One distinctive feature of the organization is that it is fully committed to the principles of non-violence. In the early 1980s, when the Assam movement[25] turned violent, CFD blamed the government for creating an atmosphere whereby the movement became violent. It did not explicitly condemn the people who were leading this movement.[26] But soon it decided its policy, which was to oppose any form of violence including terrorism. In its Conference in 1985, it passed the following resolution:

This Conference unequivocally condemns all shades of terrorism, whether of radical revolutionaries, religious fanatics or any other group of persons. Those who resort to violence, even for an apparently good cause endanger the whole democratic process. Terrorism and violence strengthen the forces of reaction and authoritarianism. For the redressal of people's grievances as well as for bringing about a fundamental transformation of society, the only democratic method is to conduct organized people's movements by scrupulous means."[27]

With regard to terrorism, it sees the responsibility of the state enhanced. It neither approves of counter-terrorism by the state, nor of passing of laws which give further coercive powers to the state for they

> only foment insurgency and breed more terrorists. They increase public resentment and afford a justification for private violence . . . In a democracy, public unrest must receive a prompt and positive response from the state.[28]

It therefore recommends repealing any draconian laws, to take the general public into its confidence, isolate the terrorists from the rest of the community and deal with them firmly under the ordinary criminal laws.

Activities

Soon after its formation, CFD decided to "co-ordinate and concentrate all efforts for the eradication of political corruption in high places, instead of taking up several programmes at the same time." The organization strove to point out the "moral rot that had set in our body politic, even at the top-most levels."[29] JP appealed to political parties and intellectuals to agitate for radical electoral reforms.[30] Identifying one of the main areas of corruption as "the attempt to collect funds for either the party in power or for individual politicians," CFD saw its role in generating a movement amongst the electorate for supporting only those candidates "who are known to be persons of integrity and social commitment." Therefore, it sought to establish Voters' Councils in all parts of the country on a non-party basis who would among other things, appeal to the people in their respective areas to support candidates with unblemished character.[31] Moving further towards almost direct electoral politics, it also adopted the policy of

"setting up of people's candidates of undoubted integrity and social commitment . . . in those constituencies in which all party candidates set up in past elections were persons lacking in moral fibre."[32]

CFD sometimes works with political parties. In 1982 it formed an association called the Emergency Virodhi Manch (Front against Emergency) -- to muster public opinion against the proposed 52nd Amendment to the Constitution which would impose a "mini emergency" in Punjab. Representatives of political parties were made members of this association.[33] Before the 1989 parliamentary elections, the Sampoorna Kranti Manch (Total Revolution Front) was established with N. D. Pancholi, a founder member of CFD, as office-secretary of this organization. In addition, it also established a Citizens' Election Forum in order to organize public meetings and distribute literature -- with the sole aim of working for the defeat of the Congress (I) in the elections. The organization had earlier submitted a 14-point demand to all the major political parties. As only the National Front accepted this demand, CFD decided "to support the candidates put up by the National Front in the following elections."[34]

It is evident that at times the work of CFD verges on the political, though its members do not participate directly in electoral politics. It argues that this kind of work is undertaken with a view to keeping at a distance "anti-democratic political parties." In Indira Gandhi's time, she represented these forces; after her death, the Congress party continues to be the target of its attacks.

Role During the Emergency. CFD was the only rights organization that functioned during the entire period of Emergency as other organizations were either formally banned or just not allowed to function. Political meetings were banned, but meetings could still be organized under the banner of CFD as it was not a "political organization." These meetings were held in the Gandhi Peace Foundation in New Delhi, and were open to anyone who wished to attend. Many of these meetings were attended by members and leaders of opposition political parties.[35]

It organized conferences in two states where Congress was not in power, Tamil Nadu and Gujarat. An All India Civil Liberties Conference held at Ahmedabad in

Gujarat on 12 October 1975 was attended by eminent jurists such as J. C. Shah, a former chief justice of the Supreme Court, and M. C. Chagla. The Conference assigned two important tasks to CFD. Firstly, to organize local committees in order to provide legal assistance to detainees and create public opinion against torture; and secondly, to draw up a petition and get it signed by citizens all over the country and submit it to the Parliament, demanding the restoration of civil liberties, declaration of general elections and the release of political prisoners. Consequently, lawyers associated with CFD filed a number of habeas corpus petitions on behalf of detainees. Through writ petitions filed in the courts, they made an effort to improve detention conditions, including the right to meet relatives and carry on correspondence with them.[36] After the fall of opposition government in Gujarat, many of the activists were detained.[37] The limited activities received a further setback when the Supreme Court decided in April 1976 that no habeas corpus petition for the release of any detainee could be filed during the period of Emergency.[38]

CFD was founded as a reaction to the politics and policies of Indira Gandhi. It remained intent on seeing her punished after she had lost the March 1977 elections.[39] Excesses committed during the Emergency remained on its agenda. One of its significant programmes was to investigate "encounter deaths" in Andhra Pradesh.

Encounter Deaths. During the Emergency, from time to time the police and governments of some states such as Andhra Pradesh, West Bengal, Kerala, Bihar and Orissa would release reports to the press stating that some Naxalites had been killed in "encounters." As there was widespread apprehension that the encounters were staged and that people were being killed in cold blood by the police to terrorize potential dissenters -- in April 1977, JP set up a committee headed by V. M. Tarkunde to collect evidence about 77 "encounter deaths" in Andhra Pradesh. This committee came to be known as the Tarkunde Committee, and is the best known of the fact finding committees in post-independent India.[40]

The Committee found serious irregularities in official reports and recommended judicial enquiry on the basis of collected evidence. It also demanded suspension of certain police officials and the protection of witnesses while the investigation was

on. More importantly, it highlighted the question of government responsibility. In an interim report, it said:

> We expect that if the murders are proven, the principle of ministerial responsibility of the Cabinet will be fully borne in mind and the murders will not be quietly buried by compelling just a few junior officials to own the blame for them.[41]

The report created public uproar. Consequently, the Andhra Pradesh government instituted a judicial inquiry, the Bhargava Commission. Soon there were allegations that the police were harassing witnesses, and the government got adverse publicity for not being able to control the situation. After a few sessions, the government ordered that the proceedings be held in camera. At this stage, CFD and other organizations boycotted the proceedings of the Bhargava Commission.[42] Notwithstanding, the failure to bring the accused to justice, the Tarkunde Committee was successful in bringing the issue of "encounter deaths" in the forefront of public domain.

Some Other Activities. Most of CFD's activities have been through fact finding committees, and the publication of reports. It has instituted investigations to establish the nature and extent of malpractices in elections, to investigate the role of public officials in communal riots, and instances of excessive police firing.[43] By 1993, a major area of concern had become the issue of religion. As Tarkunde said: "Our main function at present is to create popular opinion against the emergence of a state based on any religion."[44] CFD has called for a distinction between religious and worldly spheres and for restricting

> religion to freedom of worship and spiritual pursuits. The worldly life of men and women should be brought under secularism, to be governed under a Common civil law granting to all individuals, men and women, the same human rights and freedom along with an equal status in marriage as well as in matters of property.[45]

It has also investigated starvation deaths in Jodhpur, Rajasthan, and campaigned for minimum wages to be paid to the workers in the area; carried out a survey of the problems of the rickshaw pullers of Delhi; and demonstrated with trade unions demanding inclusion of the right to work in the chapter on Fundamental Rights in

the Constitution.[46] Its other concerns relate to questions of refugees, minorities, women, scheduled castes and tribes, freedom of the press, and economic decentralization.[47]

Journal. CFD decided to publish a journal soon after the Emergency was declared and press censorship imposed in 1975. The English journal was called *Satya Samachar* (Honest or True News). However, as soon as the first issue came out, its editor C. T. Daru was arrested in Ahmedabad. The second issue could never be published.[48] After the end of Emergency, a decision was taken in 1978 to publish a Hindi monthly called *Jantantra Samaj* (Democratic Society). Five years later, in December 1983, this journal became a joint publication of CFD and PUCL.[49] This made sense as many members belonged to both the organizations.[50] However, the journal stopped being published in 1987 due to lack of funds and staff.[51] At present, CFD does not have a journal of its own.

Structure and Functioning

Office Bearers. The office bearers are elected in general body meetings (GBMs), which take place every two years.[52] These are also called All India Conferences. Each conference elects a National Executive Council -- which consists of at least seven and up to seventy-five members. In addition, the presidents and general secretaries of state units are ex-officio members of the Council. The Council then elects a core group of "office-bearers" -- a president, three vice-presidents, a general secretary, an executive secretary and a treasurer from among its members.[53]

The entire process of election is quite informal. Usually a small group of five or six people gather suggestions from the members, and then propose the names. These names are generally accepted. It is noteworthy that there has never been a second proposal for the post of president; even for other positions, there has never been a contest.[54]

Most of the organizational work is done by the office bearers and a few active members who meet as often as the situation demands. As a rule they do not meet

regularly. The national office in Delhi has one paid office staff member, a clerk. All other work is done on a voluntary basis.[55]

Membership. It is estimated that in 1994, the total membership stood at about 2000.[56] The membership in earlier years was large, especially just after the end of the Emergency.[57] By 1985, however, the membership was dwindling, which led the organizing secretary to comment that "the major problem has been lack of persons prepared to devote more and more time and attention to the organizational development of CFD."[58] Its tenth biennial conference in April 1993 was attended by about 200 members and sympathizers.[59] In Delhi, there are only about 20 active members.

Branches. CFD considers it is necessary to have a large number of branches in order to be "able to react to every issue which is important from a democratic point of view, without waiting for guidance from the Centre."[60] At present there are branches in twelve states, the most active ones being in Karnataka, Gujarat, Bombay and Bihar. In a few places there are other units beside the state unit. For example, in Gujarat there is a separate Ahmedabad unit, and in Delhi there is no state unit but smaller local units in Sultanpuri and Nangloi areas.[61] It is, however, difficult to know how many of the units are functioning at any given time.

Funds. The main sources of funding are membership fees and donations. In 1978, the membership fee was Rs. 6, out of which Rs. 2 was given to the state unit; Rs. 1 was given to the central unit; and Rs. 3 remained with the local unit.[62] Life membership was introduced in 1983 to "augment the finances of CFD." It was decided that the subscription of life members would be invested on a long-term basis, and the interest received would be distributed equally between the central office and the respective state units.[63] At present the membership fee is Rs. 25 per year; and life membership fee is Rs. 250. With problems of finance mounting up, CFD decided in 1993 that voluntary organizations could enrol as "organizational members." The fee was kept at Rs. 100 per organization per year.[64]

One of its main benefactors is a trust founded by Palkhiwala, called the JP Institute for Human Freedom which regularly gives large sums for specific projects.[65] It also gives Rs. 20,000 per year for organizational expenses. In 1992,

Kuldip Nayar, the organization's president, arranged a donation of Rs. 150,000 from a private company, which has been invested. The interest from that is used for office expenses.[66]

The average expenditure is about Rs. 3000 per month. This is very high compared to other organizations, but is easily explained by the fact that CFD maintains an office, and is the only Indian organization that has a paid employee. Additionally, it also pays a monthly travelling allowance to its secretary, which no other organization does.[67]

2. People's Union for Civil Liberties (PUCL)

Background and Beginning

As noted earlier, CFD was the only organization in the country which was active during the Emergency. Its meetings became a favourite venue for political leaders of opposition parties to discuss political issues or vent their grievances. But due to the bar on political leaders becoming members of CFD, and the provision that members of political parties could not become office bearers, politicians found that they could not obtain leadership positions in the organization.[68]

This led to some discussion about the desirability of establishing a forum where leaders of political parties could take a united stand on issues of civil liberties as representatives of their parties. Several opposition leaders requested JP to form such an organization. He agreed there should be a movement in the country for the protection of civil liberties and democratic rights in which members and leaders of political parties should be able to participate, and even provide leadership. He suggested that in order to develop such a movement, co-ordination committees should be formed in New Delhi and in the states consisting both of party and non-party members. JP, in consultation with other leaders, nominated a central co-ordination committee consisting of about seventy members and authorized this committee to form similar committees in the states and at lower levels.[69] People's Union for Civil Liberties and Democratic Rights (PUCLDR) was thus founded

mainly as a forum where members of political parties could also become office-bearers.[70]

The organization was formally inaugurated on 17 October 1976 by Acharya J. B. Kriplani, an old Gandhian. This meeting was attended by almost all the leaders of the opposition parties including Charan Singh, who had just been released from jail and later became prime minister, and Namboodripad, a veteran leader of the Communist Party of India (Marxist). JP was named president, Krishna Kant, a Janata party leader, was made the general secretary; Tarkunde became the working president.[71]

PUCLDR was not a membership organization; it was more like a "platform" than an organization. Most of the RHA and CFD members were involved in it; there were other groups like the Chhatra Yuva Sangharsha Vahini (a youth organization set up by JP) who joined in; and of course, members of various political parties. It became a front of all the opposition parties. One of its main tasks at that time was to ask for the release of political prisoners.

Within a few months of its formation, the Emergency was revoked. General elections took place in which Indira Gandhi was ousted and the Janata party came to power. At this point many of the office bearers left the organization to take up positions in the government, including ministerial positions. Many others felt that since "friends of the people" were in power, PUCLDR was no longer necessary and advocated its winding up. Soon the national unit became defunct, and most of the local units stopped functioning. (One unit which did not stop functioning was its Delhi unit: this later became the People's Union for Democratic Rights (PUDR). I will discuss this more fully in section 3).

In 1980, when Indira Gandhi came back to power, some of the old members decided to revive it arguing that civil liberties were once again under threat. An All India Civil Liberties Conference was held in New Delhi on 22-23 November 1980. The organization was revived with the shortened name of People's Union for Civil Liberties (PUCL). A new constitution was adopted and PUCL became a membership organization.

Experience had clearly shown that it was not wise to wind up a rights organization with the change of government; also that if leading politicians were to assume leadership positions in an organization, it would be difficult to hold it together after they left. Thus, PUCL made provisions in its constitution to ensure that the organization would be free of politicians. It made the same provisions as the CFD: that members of political parties cannot become office bearers. Additionally, it has two more clauses:[72]

> At least one-half of the members of the National Council and National Executive Committee and of corresponding bodies at the State and local levels, shall be persons who are not members of any political party, (and)
>
> Not more than 10% of the members of the National Council and the National Executive Committee, and of corresponding bodies at the State and local levels, shall be members of one political party.

These provisions ensure that the organization cannot be dominated by political elements; or what could be worse, dominated by members of a single political party. Thus it does not concern itself with any political activity. For example, when the Sampoorna Kranti Manch (SKM) was formed by CFD with political objectives, PUCL as an organization did not join in even though a number of its members including Tarkunde were part of the Manch in their individual capacities.[73]

The organization's principal aims are briefly stated thus.[74]

> 1. To increase consciousness about and commitment to human rights among all sections of our people;
> 2. To provide a platform for all groups including political parties to come together for furthering the cause of human rights even though the group may have differences among themselves on other aspects of social and political life;
> 3. To energize and creatively use the existing institutions like the courts and the press, so that they may be sensitive to the human rights situation in India; and
> 4. To intervene directly in cases where gross violations of human rights take place.

Even though the term "human rights" appears in its official document, it tries to confine itself to issues which fall more directly into the category of "civil liberties." There is an emphasis on individual rights rather than "community rights." According to Prabhakar Sinha, a vice president of the organization, some issues such as workers' rights do not come under "civil liberties," and are best taken care of by trade unions. Thus PUCL will not intervene in disputes over wages, etc., but will intervene if there is any repression on workers or trade union leaders. The organization would however like to take up cases of sections of people like the dalits, tribals and women, but is prevented by lack of resources.[75]

Activities

Most of the cases taken up deal with police atrocity and state violence. However, its target is not always the state. It is also against all forms of violence including private violence and does not hesitate in blaming armed political groups like the Naxalites for any violence committed by them. A report, *Violence in Jehanabad*, gives details and condemns Naxalites for killing landlords and members of other political groups. In an incident during the 1989 parliamentary elections, the Naxalites in Ara district of Bihar claimed to have killed six *booth looteras* (people who capture election booths). PUCL investigated and found that none of the six killed were booth looteras. Its report condemned the Naxalites for this violence.[76]

PUCL is distinctive for two of its annual activities. (1) It organizes a JP Memorial Lecture each year on 23 March to commemorate the day Emergency was lifted in 1977. The lecture is held every year at a different venue and is usually delivered by an eminent person.[77] (2) In 1981 it instituted a Journalism for Human Rights Award. A jury of prominent persons selects a journalist from amongst the entries received for his or her work, consistency for working in this field, quality of investigation done, and risk involved in making the investigation. From 1981 to 1985, *India Today,* a fortnightly magazine, endowed the prize money. Nowadays the prize money is collected every year by way of donations from members and sympathizers.[78]

Fact Finding Committees

Like most other rights organizations, PUCL adopts the following strategies: holding public meetings, demonstrations, issuing statements to the press, assisting local organizations, holding conventions and meetings of activists and social workers, sending fact finding teams to investigate cases of rights abuse, and seeking the intervention of the courts.[79]

Instituting fact finding committees (FFCs) is a widely used method to investigate allegations of rights abuse. The Bihar PUCL has evolved a set of procedural guidelines for the institution and functioning of such committees. The national PUCL has recommended that this procedure be followed by all units.[80] The salient points are:

1. The decision to investigate any issue must be taken by the president and the secretary, preferably in consultation with executive committee members;
2. Issues taken up must not be political, but must pertain to questions of civil liberties;
3. No person connected with the dispute in any way should be included in the team;
4. If a journalist is in the team, he should not write about it till the FFC report is published, nor should he write anything at variance with the findings of the report;
5. Any lawyer who is in the team should not accept brief for any party till the report is published. After the publication of the report, he would be expected to refuse brief for the party at fault.
6. There should be at least three members in the FFC; no one should act independently or meet any witnesses separately;
7. Detailed notes should be taken during the investigation, and all relevant documents must be collected;
8. The report should be based on notes and documents, not on personal views;
9. The report should be prepared by all the members of the FFC, and given to the president or secretary of the unit to make it public. A local unit may forward a report to the state or central unit to release the report.

The Bihar PUCL usually takes decisions in its weekly meetings, which are open to anyone wishing to attend. The aggrieved person, or the one who has brought the complaint, is present while the issue is discussed and a decision taken about investigating it further. It usually refrains from giving out press statements before the FFC report is published for "statements are not effective unless there is a proper report on the basis of which certain demands can be made."[81] There are times when it is not possible to be absolutely sure about the nature of an incident. In such a case, it does not bring out a report at all.[82]

Journal. PUCL publishes a monthly journal in English, called *PUCL Bulletin.* It has been published regularly since May 1981. The subscription rates are low as the organization subsidizes a part of the cost.

Structure and Functioning

Office Bearers. It has a three-tier structure. A national convention or a general body meeting is held every two years and this is the highest policy making body. The convention elects a National Council and a National Executive Committee.[83] Again, the "election" is informal, like in the CFD. The National Executive is composed of office-bearers (president, vice president, secretary and treasurer), and past office-bearers, who are ex-officio members. It has a total of about 30-35 members. The National Council is a larger body of about 150 people. Many of the office bearers of local branches are included in the Council.

PUCL has no paid staff. All work is voluntary. Though it does not have an office, the house of Y. P. Chibbar, the general secretary, is for all practical purposes the national office. He spends four hours each evening, from 6 to 10 pm in this "office." He has managed to keep all records and documents in proper order, which is unique for any rights organization in India. Most other organizations are very poor at record keeping. There is a realization in PUCL that it is important to keep all records in an organized manner. But this depends on each unit: so what is true of the national office may not be the case in other units.[84]

Membership. Its membership is drawn from a broad political spectrum. There are Gandhians, and socialists like the followers of JP and Ram Manohar Lohia. There are also those who belong to the Left parties including some from the Marxist-Leninist factions, though their numbers are very few.[85] It would be fair to say that this organization is dominated by socialists and liberals.

In recent years, a sort of crisis has developed with regard to the political or ideological position of some of its prominent members. The question that PUCL has had to face recently is this: What do you do if your members become members of a communal party or support it? More specifically, Amrik Singh, a national vice-president openly asked people to vote for the Bharatiya Janata Party (BJP), a right-wing Hindu nationalist party, in the 1993 Delhi Assembly elections. Arun Shourie, one of the founders and a past general secretary, has also moved closer to the BJP. There is a difference of opinion as to what should be done with them: should they be expelled or allowed to stay? For the present, PUCL has decided to let them be members as in any case they are not "active" in the organization.

Another area of concern is the trend of decreasing membership. Even where members might be on the register, very few actually take part in its activities. For example, the Delhi unit has 200 members on its register, but when a general body meeting was held in 1992 to conduct organizational elections, only 50 people turned up. Its fortnightly meetings are attended by not more than five or six members.[86] Similarly, the Bihar unit has shown a significant decrease in membership (see Table 4.2).[87]

Table 4.2

Approximate units and members in Bihar PUCL

Year	No. of District Units	No. of Members
1988	18-20	450-500
1994	8-10	200-250

The reasons for decreasing membership are varied. In the case of Delhi unit, "there was not enough work for the members," so they lost interest and left the organization after a short while.[88] In the case of Bihar unit, it was influenced by two factors. Firstly, the political situation in the state. With the rise of Janata Dal in Bihar a number of people who were from the JP movement left PUCL to join and devote their time to the political party. Some others left to work full time for the BJP. Thus, what had happened at an all-India level in 1977, happened again in Bihar -- but as PUCL had made safeguards against this kind of occurrence, the unit survived albeit with reduced numbers. The second reason is that in 1991 Ramchandra Lal Das, a busy lawyer took over as president. He has much less time to spare than the earlier president, who is an academic.[89]

Branches. The structure of each state unit follows the pattern at the national level. The state branches organize and co-ordinate the work in the state concerned. They are also responsible for establishing local branches in the districts.[90] An official document of the organization stresses that the local units are very important for

> it is here that suppression or the denial of the liberties of people takes place. It is the activities at the local level that give shape and identity to the organization. The initiative and the alertness shown by the members at the district or city level is the most important element in the movement for civil liberties.[91]

The national unit takes policy decisions and co-ordinates activity without interfering in the functioning of any unit. The local units have to function within the broad framework of the constitution, but they are encouraged to be independent in their functioning. However, they are free to enlist the help of the state units or of the national body.

PUCL takes a very tolerant attitude towards the local units. It is always reluctant to dissolve a unit even if it has not done any work for a considerable period of time. It is not unusual for some units to be dormant. In such a situation, the national unit tries to encourage the local unit to be active; it may ask the unit to suggest names of people who might be interested in taking up responsibility or leadership positions. Finally, if the problem cannot be resolved at the local level,

the national unit might intervene by deputing an executive committee member to go there, sort out the problem, and get the unit functioning.[92]

Funds. Funds come from membership fees and donations from members, especially on a case to case basis. The Delhi unit for example had merely Rs. 500 in its bank account in early 1994.[93] Though there is never any surplus money, there has never been a situation when some work has been delayed or an issue not taken up due to lack of funds. The main expenditure is on subsidizing the publication of its monthly journal.

3. People's Union for Democratic Rights (PUDR)

I have noted in the last section that the defeat of Indira Gandhi in 1977, and the coming to power of the Janata party caused a number of PUCLDR members to lose interest in the organization. They thought that since a "sympathetic government" was in power there was no need for a rights organization any more. Thus one by one most of the branches including the national unit became defunct. However, there was an exception: the Delhi unit continued to work. This unit later became the People's Union for Democratic Rights (PUDR).

Immediately after the Janata party came to power (in 1977), there were three instances of police firing: on workers in the Chattisgarh area of Madhya Pradesh in which 25 workers were killed; on students at Pantnagar Agricultural University; and on tribals in Singhbhum area of Bihar. These incidents convinced the Delhi unit of PUCLDR that there was a need to continue working irrespective of a "sympathetic government" in power.

After the return of Indira Gandhi to power in 1980, an effort was made to revive PUCLDR by people like Tarkunde and Arun Shourie, a noted journalist. This led to discussions and then to a debate. Apparently, the main question was of defining civil liberties and democratic rights. While one group led by Tarkunde and Shourie wanted civil liberties to be given precedence, the other group felt that the need of the hour was to go beyond the limited understanding imposed by the term "civil liberties." The second group was the already existing Delhi unit of

PUCLDR, led by Gobinda Mukhoty, a lawyer. Other leading members of this group were Sudesh Vaid, Subba Rao, and Sumanta Banerjee. The people in this group were "non-party people" or at least they did not belong to or have sympathies with the Janata Party. They were mostly academics from Delhi University like Sudesh Vaid and Subba Rao. and had broad Left-wing sympathies; Sumanta Banerjee was a former Naxalite.[94]

The Tarkunde group wanted to revive PUCLDR as an all-India organization with all other groups included in it; the Mukhoty group argued that this was not the right approach, for each organization had developed in its own way and should retain its autonomy.[95] During the debate, the question of Soviet intervention in Afghanistan was raised. The Tarkunde group was critical of the intervention, but the Mukhoty group wanted to have no discussion on this subject.[96] In brief, it can be said that though some significant questions regarding the nature and functioning of rights organizations were raised during the debate, the tone for disagreement between the two groups was set even before the debate began as many of the people from the Delhi unit were not invited to take part in the discussions leading to the final debate. The last straw which caused the split was some disparaging personal remarks made about Mukhoty.[97] One participant who was present during the debate summarized the event as "simply a clash of egos."[98] The final outcome of this dispute was that a consensus could not be reached. The Delhi unit decided to work separately and became a separate organization.

However, with the passage of time, differences with the Tarkunde-led PUCL receded into the background, and a number of joint fact finding reports have been published. In fact PUDR finds it simpler to work with PUCL as it is based in Delhi, rather than with other organizations which might be closer to its understanding of issues but are located in different parts of the country.[99]

Nature, Aims and Activities

In March 1981, PUDR adopted a separate constitution. It decided to keep the organization "free from the expediencies of political parties." It decided that it

would not be a meeting point of representatives of political parties or mass organizations, and declared that it would admit "members and sympathizers of all political parties and groups but they will not be admitted as representatives of their respective organizations."[100] It strongly believes that organizations should not change their stand on the question of rights depending on which political party is in power at a given point in time. The issues of rights of people "are related to basic questions about the kind of society that we live in: it should not be based on political control or formal political control."[101]

PUDR felt that PUCL was taking a very narrow view of the situation by focussing on civil liberties and ignoring the democratic rights of the people:

> It (PUCL) does not realize that it is necessary to understand the social, economic and political needs of the people . . . in order to appreciate the need for a movement for their rights . . . and thus excludes the day to day struggles of the peoples from the purview of the civil rights movement.[102]

It declared itself as a defender of people's "right to struggle," which it considers one of the foremost democratic rights. Thus it focusses on the rights of communities rather than on single individuals.[103] As a matter of policy, it confines itself to domestic issues and does not comment on any developments outside India.[104] This is significant because none of the other organizations have such a strict policy.

It is conscious that individuals must always come second to the organization. Therefore none of its reports carry the names of the persons who write them, though the names of the people who constitute a fact finding committee are mentioned in the reports. Similarly, all press statements are given by an anonymous "PUDR spokesperson."[105] When I approached PUDR for an interview, I was assigned to a "spokesperson," a former secretary of the organization. Members are not supposed to speak about or comment on any activity of the organization. When I asked some members in private about the organization, none of them agreed to talk to me. Among the people I approached was an old acquaintance, who since I had last met him had become a member of PUDR. He, too, refused to say anything about the organization.

Another distinctive aspect of PUDR is that it is very particular about not sharing the contents of its "internal documents" with any outsider. Its annual reports are also treated as "internal records." It shares this aspect with just one other organization, the Bombay based All India Federation of Democratic Rights (see section 6). All other organizations are quite open about their organizational documents of any kind.

Activities

PUDR sees itself as a Delhi-based organization with an all-India scope in its activities. Though it is in a better position to take up cases from Delhi and nearby areas, it does take up a number of cases from outside Delhi which is usually on the invitation of local organizations.

It has published more than a hundred reports so far. The reports are of two kinds: one kind is based on pure research, e.g., on specific legislations;[106] the other kind is based on fact-finding committee reports. Some of these reports have raised important debates -- for example, on issues of communal riots and custodial deaths. It has brought out reports on riots in Delhi in 1984 and 1987, and on riots in Bhopal, Madhya Pradesh and Bhagalpur, Bihar.[107] In its reports, it makes an effort to look at the issues from "the framework of democratic rights . . . to understand how state agencies commit violence."[108] It takes a keen interest in the issue of custodial deaths, and makes an effort to investigate all such cases. especially those occurring in Delhi and nearby areas. It has also brought out general discussions on this subject.[109] But as reports by themselves do not make any immediate or significant impact, some of the reports are also followed by court action.

In fact, PUDR has scored some significant achievements in legal struggles. In a case, now popularly known as the Asiad Case, Justice Bhagwati gave a landmark judgement on the blatant violation of labour laws by the state machinery. This was a victory for the workers for whom the case was fought by PUDR -- but perhaps more importantly, it was a victory for the rights movement as the Supreme Court asserted that any member of the public may move the court for redressal if the

victims of abuse cannot afford to approach the court. This enables the organizations to take up the cause of victims and approach the court on their behalf. Further, under this scheme, called the Public Interest Litigation, a petition can be moved merely by writing a letter and not necessarily a legally worded document.[110]

PUDR is concerned with rights of workers, who are exploited both by the contractors and the police.[111] It has also raised questions relating to the environment. It made a start in this direction in 1982 when it undertook a critical review of the forest policy.[112] Another significant contribution has been in the area of women's rights. Up till 1980, the understanding of rights organizations had been confined as their work related to mainly two broad spheres: cases of political prisoners and of police firing. PUDR recognized that issues must be seen in a broader perspective. This was an important break with earlier tradition of just looking at two issues. One of its first reports in this direction was *Rape, Society and State,* which for the first time took up the gender issue in the rights movement. This was in 1980; four years later this was followed by a more comprehensive report *Inside the Family*, which highlights the following aspects: the inability of the legal system to recognize the unequal position of women; the perception of women as peripheral to economic development by the state and their consequent marginalization and exploitation in the labour force; the perpetuation of the notion of the family as a private area governed by religious and social customs; and the bias of the police and courts in relation to crimes against women. The report relates this aspect to the function of the family in violating the rights of women.[113]

Structure and Functioning

PUDR has formal members, activists and sympathizers. Formal members are those who have filled in a membership form, and have the right to vote in organizational elections. The activists meet every week and do all the work. The sympathizers are people who do not have the time to attend meetings or participate in its activities but constantly provide moral support in one way or

another. Or they have been members or activists in the past but due to other commitment cannot attend meetings regularly anymore.

There is an executive committee which is elected by the general body meeting for a year. Earlier this committee consisted of ten members. Since 1990, it has become a smaller and cohesive group with two secretaries, one treasurer and five other members, plus the advisor, who is nominated by the executive committee. In 1990 the post of president was abolished and replaced with that of advisor. Gobinda Mukhoty, who was earlier the president is now the advisor.

In principle the office bearers are elected, but in actuality, as they are all "friends," very often there is just one name for a post, and therefore no elections. It is a deliberate policy to involve new members in organizational work. The older members make it a point to give them some responsibility, and within a year or so give them a post as well. However, holding an office is really not important as far as the working of the organization is concerned. The older members often wield influence and direct its affairs. The office bearers are only useful when someone has to formally represent the organization.

PUDR has no office and no paid workers. The issue has been raised, but it has consistently resisted any suggestions in this direction. The house of one of the secretaries or of Sudesh Vaid, one of the founders, is used as an office whenever necessary.

Membership. The system of formal membership is not rigid. There is a membership list, but it is "tucked away somewhere" and is only brought out during the annual general body meetings when elections are held.

PUDR is a small organization. In 1981 there were only about a dozen or so activists.[114] Now the total membership stands at about 60-70, and the number of sympathizers has also increased. Its activist meetings are attended by about 15-25 people. The total number of members and sympathizers has actually grown through the years at a steady pace.

Apart from members who have been with PUDR from the beginning and are largely academics, a majority of the members and activists are students or on the verge of completing their studies. The average age of members is very low: this dominance of young members can be ascribed to the fact that some of the older members are university teachers who have "created these people"; or have made it a point "to discover new talents."[115]

In principle any one who attends the weekly meetings can become a member. In practice, it is much more complicated as the activists tend to exclude anyone they are not completely sure of. PUDR emphasizes the role of personal relations and "friendship" with each other. For example, any member of a political party may join, but it is unlikely that he would be made to feel like a part of a team, and would soon find himself isolated.

Meetings. There is an "activists meeting" which is held every Saturday evening at Triveni Centre in central Delhi. This is an outstanding feature of PUDR in the sense that not a single Saturday has gone by without this meeting being held for the past fourteen years (since its inception). This is an open meeting. Anybody can come and attend this meeting -- as indeed people do for various reasons -- to bring a complaint, or to see how the organization functions with a view to becoming a member, etc. It is here that activities of the previous week are reported and issues discussed. Each week the meeting begins with "reporting," when activists report on the progress of any on-going project. Then new issues are discussed, work allocated, and groups formed to do further work.

However, details of how any particular work has to be done are usually not discussed here. This is done *after* the meetings are formally over -- in small groups, which is an obvious and clever way of excluding anyone the activists wish to exclude for any reason.[116] Also, no "policy decisions" are taken in these meetings. They are taken in the executive committee meetings or at the annual conferences.

These weekly meetings are nevertheless useful as anyone who wants to approach the organization can come here. All other rights organizations in the country are aware of this arrangement.

Funds. There is a membership fee but it is so small that none of the activists I spoke to seemed to remember the exact amount. A system of regular donations is in practice: members and activists are expected to donate Rs. 20-40 each month. This practically adds up to about Rs. 5,000 or Rs. 6,000 per year, and is enough for organizational expenditure which is mainly incurred on photocopying and postage.

The other expenditure is on printing of reports. For this, it raises loans from members, and returns the amount after the reports have been sold. In case the entire amount cannot be recovered after the sale of any particular report, members are asked for donations.

None of the organizations accept foreign funds, but PUDR is especially wary about it. This is to the extent that it does not accept any money from abroad even for copies of its published reports. This effectively means that their publications cannot be bought by anyone abroad unless they have friends in India who can pay for the reports and postage in Indian currency.

Kamdar explains why foreign funding is looked at with so much suspicion in India by the rights organizations:[117] a) Some local organizations which received foreign funding in the past were used to propagate ideologies of the funding agencies or to create certain kinds of public opinion. b) Organizations do not want to compromise their independence in any way. Any large funding will inevitably lead to softening of stand on certain issues, consciously or unconsciously. They do not want to take this risk. c) The need for monetary resources is not as important as that of committed people and volunteers. d) Foreign funds have always been considered "dirty money" and this perception persists in the minds of the people. Organizations do not want to be bothered with answering unnecessary questions, which would happen if they started accepting foreign funds.

Many organizations including PUCL have been charged with taking foreign funds and have been called "stooges of CIA" in the parliament. Thus foreign funds is one thing that all organizations like to keeps away from -- though PUDR certainly takes this principle to an extreme.

4. Peoples' Rights Organization (PRO)

Soon after the formation of PUCLDR in 1976, a unit was established in Delhi University consisting of teachers, students and workers. Aurobindo Ghose, a lecturer at Delhi University, became its first convenor. In 1977, after the end of the Emergency, he led more than 2000 people in a demonstration against the excesses of the Emergency and demanded the release of political prisoners. Later when PUCL was formed and PUDR came into existence, Ghose decided to stay with PUCL. He was active in the organization, and was on the editorial board of *PUCL Bulletin.* However, he felt that the PUCL was not taking up some of the issues that he and some of his friends in the organization would have liked to take up.

Amongst the cases that he felt should have been taken up, he mentioned two in particular. The first concerned the situation in Punjab: questions relating to the rule of law not being operative and prevalence of encounter killings. This was before the army attack on Golden Temple in 1984. PUCL did not consider it an important issue, and did not permit Ghose and some others to take up the issue -- particularly as it was said that some important people in the organization such as Arun Shourie might not approve. After the attack on Golden Temple, Ghose argued that the state did not have the right to destroy a place of worship, and that it was a part of civil liberties agenda to raise one's voice against it. The idea was still not welcomed. Finally Ghose worked on this issue in his individual capacity.[118]

The second issue had to do with the implementation of Anti-Encroachment Laws in 1982-83. According to these laws, slums could be demolished without notice and the slum-dwellers imprisoned. As PUCL did not pay adequate attention to this issue, Ghose formed a Jhuggi Jhopri Niwas Adhikar Samiti (Committee for Housing Rights of Slum Dwellers), composed of representatives of various local organizations like the Indian Socialist Youth and Vidya Jyoti. The members of this committee were also active in the aftermath of the 1984 riots in Delhi, and organized relief camps for riot victims.[119]

Disenchantment with PUCL and the experience of working with local, grassroots organizations led Ghose to start thinking in terms of working independently. He felt that "a new organization could be set up without duplicating the work being done by other organizations as human rights violations are countless and take place in diverse situations."[120] By early 1986, he had decided to form a separate organization. Thus Peoples' Rights Organization (PRO) was founded on 11 March 1986 by Ghose and some of his friends.

It functioned till September 1987 through a five-member committee with a convenor. From October 1987 to April 1988 it had a 12-member executive committee with a convenor and a secretary. It was finally formalized on 30 April 1988 when it held its first general body meeting, adopted a constitution and elected for a two year term an 11-member executive committee including five office bearers.[121].

Nature, Aims and Activities

Like PUDR, PRO is a Delhi-based organization which has an all-India scope in its activities. It is the youngest amongst the rights organizations, and calls itself a "human rights organization." It does not make any distinction between the terms civil liberties, democratic rights and human rights, as far as its functioning is concerned.

As the founders had set up this organization to take up issues which were not being taken up by other organizations, especially PUCL at that time, it deliberately decided to adopt a selective approach in its functioning. It "refuses to believe in the concept of neutrality of civil and democratic rights," and claims to be a "partisan organization." Its main aim is to defend "and extend the rights of the downtrodden, exploited and oppressed sections of Indian society."[122] It therefore tries to concentrate on groups rather than individuals. It is concerned about women, children, handicapped, minorities, dalits, other weaker sections of the society, or those who might be victims of the state machinery. When it takes up cases of individuals, it sees the victims as representatives of their social group. Further, it takes the principal initiative in only a few selected cases due to its small

size and other practical limitations. It is also conscious of directing some of its energy in persisting with unresolved issues it has raised in the past.[123]

PRO is a "transparent" organization. It shares this feature with some other organizations like the CFD and PUCL. It is an "open" organization in the sense that anyone may ask to see any organizational document. There are no "internal documents." I was given complete access to minutes of meetings, membership lists, and other documents. PRO believes that transparency should be an important aspect of any rights organization, and has faithfully incorporated this principle in its practice. This is not to say records are always available -- for some records just do not exist. PRO often works through sub-committees. It is quite possible that the minutes of the meeting where a particular sub-committee was constituted are available, but the detailed work of the sub-committee itself is not available as it was never recorded in the first place.[124] However, there is an effort to preserve all organizational records and documents.

Activities

PRO has been concerned with political prisoners in West Bengal and Punjab, and has campaigned for their release.[125] It has been particularly concerned with police repression in Punjab and demands a "political solution" to the problem. It believes that only a political solution which is arrived at by taking all sections of the people into confidence can be meaningful.[126] At various times, it has condemned the passing of special legislation for the state, extension of president's rule and press censorship.[127]

It has also been concerned about the fate of sections of people who are treated as illegal immigrants. It compiled a report on Chakmas (so called illegal immigrants) in Arunachal Pradesh and highlighted some of the atrocities committed against them by the police and para-military forces.[128] Similarly, in February 1993 some residents of New Seemapuri colony in Delhi contacted PRO about not getting food rations from government shops and being harassed as they were suspected of being illegal immigrants from Bangladesh. PRO intervened by sending a fact finding team and publishing a report.[129]

Like other rights organizations, PRO also takes an interest in workers' rights,[130] women's rights[131] and environmental issues. It was part of a Human Rights Campaign on Narmada and participated in joint programmes with other groups in protesting against the construction of Narmada Dam.[132]

Its concern about communal violence in Bidar, Karnataka -- where six student were killed in October 1988 -- was widely reported in the press.[133] Its report on Jaipur riots makes it clear that it was an organized and planned attack by the Bharatiya Janata Party (BJP) and its allies on the minority Muslim community. It also points out that the government did not take any steps to prevent or control the violence.[134]

As far as taking up cases of individuals is concerned, PRO seems to specialize in cases of abduction. It has intervened in at least three cases of abduction. All three of the victims belonged to the academic community. The first was the case of kidnapping of Veeramani, a high school teacher and secretary of Progressive Youth Centre, by Karnataka and Tamil Nadu police;[135] the second case was the abduction of Susheel Kumari, a lecturer in Haryana;[136] and the third case was that of Govardhan Uniyal, principal of a college in Uttar Pradesh.[137] It is also vigilant about social activists being arrested or harassed and protests if any incident is brought to its notice. It has done so on various occasions by writing directly to the government and raising the issue through the press.[138]

It successfully organized one public demonstration (on 30 January 1992) against the general human rights situation in Andhra Pradesh after it had sent a fact-finding team there and produced a report titled *The Coercive Machinery of the State and the Demise of Democratic Rights in Andhra Pradesh.* About 200 people participated including representatives of different rights organizations.[139] This was however the only public demonstration that PRO organized on its own initiative.[140]

It has also organized workshops and conferences. The first was a two-day all-India convention in Delhi on 20-21 December 1986, which was attended and addressed by members of fraternal organizations and activists from all over the country. This was also a kind of formal announcement that a new organization had come into

existence. On 19 September 1992 it organized a workshop on human rights. Encouraged by its moderate success, it then organized a one-day convention in Delhi on 5 December 1993 on the Human Rights Ordinance (see chapter 6), which was attended by about 400 people.

Publication. It does not have a magazine or periodical, but most of its reports are carried in *University Today,* a fortnightly, edited by C. S. Kalra, an active member of PRO. Its reports are also published in journals brought out by other organizations.

Structure and Functioning

Office Bearers. There is a president, a vice-president, a general secretary, a secretary and a treasurer. The president is the head of the organization and its spokesperson; the vice-president has no special responsibility except that of carrying out the functions of the president in his or her absence. The general secretary is the most important person in the organization. This position has been held by Ghose since the inception of the organization. He maintains records and proceedings of the meetings, keeps track of the decisions of the general body and executive committee meetings, and is responsible for implementing them. He is also empowered to spend up to a sum of Rs. 200 in cases of emergency. The secretary carries out any work delegated to him by the general secretary; and the treasurer is responsible for keeping the accounts.

The executive committee consists of office bearers and at least six other members. It has a two year term and meets at least once every month. In 1994, there were 20 executive committee members, including the office bearers. However, there have been only two general body meetings so far, in 1988 and 1992.[141]

Membership. According to the organization's constitution, any person of 18 years or more residing in Delhi and adjoining areas, may become a member. Some of the members come from villages around Delhi. One such person is Khazan Singh, who was himself a victim of oppression in his village.[142] His case was taken up

by PRO. Subsequently, he became a member, and later a secretary of the organization.

Its membership is composed of socialists, some of whom are followers of Ram Manohar Lohia and Ambedkar, and those with broad affiliations with the Left parties, like the Communist Party of India (CPI), CPI (Marxist), and CPI (Marxist-Leninist). There are no members affiliated to the BJP, a right wing Hindu nationalist party, or the ruling Congress party.[143] The organization is not against political parties or political activism, but refrains from any direct political action.

Meetings. Initially fortnightly meetings were held in members' houses. As this was not always convenient, PRO decided to hold its meetings at Triveni Centre in Delhi,[144] the same place where PUDR meets every Saturday. This arrangement did not last long as it became a bit awkward to have two rights organizations holding meetings simultaneously, only a few yards from each other. PRO shifted its venue and now meets in a coffee house in Mohan Singh Place in central Delhi. These meetings takes place on the second and last Saturdays of each month. Very often, individuals or groups are also invited, especially local groups either seeking or extending support. A typical meeting is attended by about 12-15 people.

Meetings are open and informal. All decisions are taken jointly by the members. Once a decision is taken, members are expected to support any organizational initiative even if they had initially disagreed with any aspect of a particular issue. Members do sometimes disagree on issues, and fierce debates are not unusual. According to Ghose, this is largely because some of the cases taken up are not clear-cut, and the organizational position needs to be worked out and clarified.[145] I was witness to one such debate between two prominent members, C.S. Kalra and Sengupta, on questions relating to the construction of Narmada Dam.

Funds. Funds come from membership fees, sale of literature, and donations by the members and their friends. PRO refuses to take large sums of money as donations in order to retain its independence and objectivity. At least in one instance, it was offered a considerable sum of money by a religious organization. It does not accept funds from political parties, government agencies, and foreign or

anonymous sources. Its expenditure is rather meagre. During a period of 18 months, from October 1992 to March 1994, it had spent Rs.1800, or an average of just Rs. 100 per month.[146]

5. Indian People's Human Rights Commission (IPHRC)

The Indian People's Human Rights Commission (IPHRC) is unlike all other organizations. Its main objective is to maintain a tribunal, the Indian People's Human Rights Tribunal (IPHRT), modelled after the International War Crimes Tribunal established by Bertrand Russell. Jean-Paul Sartre and others during the Vietnam War.[147]

It was on 23 March 1986 in Hyderabad that some activists first discussed the idea of setting up a tribunal to investigate and adjudicate on cases of state violence. The need for such a tribunal was felt by them in the context of increasing state violence in several parts of the country, especially in Bihar, Andhra Pradesh and the North-East. To discuss the idea further with a wider group, a meeting was held in Delhi on 27 April 1986. At this meeting, which was attended by activists of rights organizations from different parts of the country, it was decided to establish a tribunal consisting of retired judges of the Supreme Court and the High Courts. For the next five months, retired judges were contacted. Initially, nine of them agreed to be part of the Tribunal; later many others joined in.[148]

On 3 August 1986 activists met again, this time in Bombay, to discuss details of the organization. It was decided that the tribunal would be called the Indian People's Human Rights Tribunal (IPHRT) and it would be set up by concerned citizens who would form themselves into the Indian People's Human Rights Commission (IPHRC). The Commission would receive petitions and complaints concerning violation of human rights by the state, conduct preliminary investigations and then forward it to the Tribunal for its consideration. The Tribunal would frame its own rules and procedures for adjudication. It was also decided that the Commission would elect a secretariat to facilitate the work.[149]

A small group of activist lawyers were asked to draft a declaration and a constitution for the Commission. They did so when they met in Ahmedabad on 15 and 16 September 1986. The draft was circulated among activists and was finally adopted on 19 October 1986 at Nagpur. A secretariat consisting of eight people was elected. P. A. Sebastian, secretary of the Bombay-based Committee for the Protection of Democratic Rights (CPDR) was elected principal secretary of the Commission. Among the members were leading activists or office bearers of other rights organizations -- like K. Balagopal of Andhra Pradesh Civil Liberties Committee (APCLC), Nandita Haksar of PUDR, and Sujato Bhadra of Association for the Protection of Democratic Rights (APDR).[150]

The formal inauguration of the Commission took place in Delhi on 10 January 1987. Mrinal Sen, a noted film director, became the Commission's first president. Some of the other prominent persons in the Commission were A. R. Desai and Romila Thapar -- both reputed academics.[151]

It was agreed that the Commission would raise money through subscriptions and donations from persons and organizations within India and no financial aid from abroad or from any government would be accepted.[152]

Functioning and Activities

The Commission receives complaints and conducts a preliminary investigation to satisfy itself that the case in question amounts to "gross and systematic violation of human rights." Thereafter it asks the Tribunal to take up the case. The chairman of the Tribunal then appoints a two-member team from amongst its members to investigate the case. Usually the chairman also writes to the chief minister of the concerned state to say that the Tribunal will be conducting an inquiry and asks for co-operation. The civil authorities of the area including the district collector/deputy commissioner, and the police authorities including the superintendent of police are also asked to appear before the Tribunal. In case they do not wish to appear in person, they are given the option of sending signed statements, or failing that, any official report or document relating to the incident.[153] The public at large is notified through the press where sessions or

hearings would be held. The two-member team then conducts hearings and meets local people including social activists in the area. As former judges of the High Courts or the Supreme Court, the tribunal members are well versed with legal aspects of any inquiry -- but they are not restricted by legal provisions which may hamper gathering of evidence. They are free to devise their own procedure for each case and also free to modify the terms of reference of any inquiry. Finally a detailed report is produced setting out the background of the incident and the findings of the Tribunal.

Since the Tribunal is headed by Krishna Iyer, an eminent jurist, and the members are former judges, very often state governments pledge to extend full cooperation in any inquiry. However, once the inquiry begins, it is extremely difficult to get any help at all. In one particular case, the tribals who were coming to depose before the Tribunal were stopped and their buses sent back; some of them were even arrested. Finally when the hearings were on, policemen in plain clothes disrupted the proceedings.[154] Non-cooperation of the authorities has perhaps to do with the nature of cases taken up by the Tribunal.

Activities

The Tribunal has so far investigated five cases. It took up its first case within a few months of its formation. This was concerning an incident at Arwal in Jehanabad district of Bihar on 19 April 1986. In a meeting of the Mazdoor Kisan Sangram Samiti (MKSS), a Naxalite organization, a large number of people including children were killed in police firing. At least three separate and independent fact finding teams had been sent by different rights organizations. All the teams had found that the firing was unprovoked.[155] The incident had also got extensive media coverage. The Commission received a complaint from the president of MKSS and took up the case. It was investigated by T. U. Mehta, a former chief judge of Himachal Pradesh High Court and P. S. Poti, a former judge of Gujarat High Court.[156]

The second case was the Chintapalli Arson case which took place between March and May 1987. The police had allegedly burnt down hamlets of the *girijans*

(tribals) in the name of protecting forests from shifting cultivation. According to a report published by the Andhra Pradesh Civil Liberties Committee (APCLC) in its journal *Swechha,* 638 houses in 46 hamlets had been burnt down. Following these incidents, M. V. Rama Reddy formed a Committee for Relief to Girijan Victims of Andhra Pradesh. Subsequently, he approached the Commission on 7 October 1987 to initiate an inquiry with a view to secure justice for the tribals. A tribunal consisting of Jyotirmoyee Nag and T. Chandrasekhara Menon, retired judges of Calcutta and Kerala High Courts was set up to investigate the case.[157]

The third case taken up and investigated was that of communal riots which began in Meerut in Uttar Pradesh on 18 May 1987 and claimed more than a hundred lives. This case was taken up *suo moto* by the Commission as the incidents were widely reported in the press. A two-member tribunal consisting of Jyotirmoyee Nag and A. C. Gupta, former judges of Calcutta High Court and the Supreme Court respectively, examined the role of the administration and the Provincial Armed Constabulary (PAC) of Uttar Pradesh, and came to this conclusion:[158]

> It was the PAC and the police who appear to have been responsible for the atrocities that were committed on men, women and children and the terror that was let loose in Meerut on these days. They brought with them what has been described by some witnesses as 'Hindu communal elements'. The victims were mostly Muslims. All the riffraffs and the goondas (anti-social elements) accompanying the PAC or the police set fire to Muslim houses and looted their belongings. The PAC and the police maimed, tortured and killed. It was not communal frenzy as such that caused the loss of so many lives and brought sorrow and grief to so many people, it was the doing of those who were entrusted with the task of protecting law and order and preserving the peace!

The fourth case occurred in Bangalore and other parts of Karnataka and Tamil Nadu. The states of Tamil Nadu and Karnataka were engaged in a dispute regarding sharing of Cauvery river water. On 13 December 1991 Karnataka state declared a *bandh* (strike). This led to some violent incidents in Bangalore and other parts, mainly directed against Tamilians. The breakdown of law and order, coupled with the inaction of the state machinery caused a large number of Tamilians to flee Karnataka. On the request of various local organizations, the Commission forwarded the matter to the Tribunal, which asked D. S. Tewatia,

former chief justice of Calcutta High Court and H. Suresh, former judge of Bombay High Court to investigate the case and produce a report. As in all other reports, the Tribunal once again came to the conclusion that the police were indeed responsible for the loss of lives.[159]

The fifth and most recent case was regarding communal riots in Bombay in December 1992 and January 1993. The inquiry was conducted by S. M. Daud and H. Suresh, both former judges of Bombay High Court. The 163-page comprehensive report lays out the evidence collected, blames the government and police authorities for inaction, and suggests short-term and long-term policies.[160]

6. All India Federation of Organizations for Democratic Rights (AIFOFDR)

The All India Federation of Organizations for Democratic Rights (AIFOFDR) is the only federation of rights organizations in India. It is based in Bombay, and headed by Rajani X. Desai, an economist and a former associate editor of an influential journal, the *Economic and Political Weekly.*

Before the Emergency, Rajani Desai was associated with an organization in Bombay called the Association for the Defence of Democratic Rights. Like many other rights organizations, this too, could not function during the Emergency and became defunct -- but was re-established after the Emergency with a different name, the Lokshahi Hakk Sanghatana (LHS). According to Desai, who heads this organization, it is active "on the platform of democratic rights identifying the state as the most organized instrument of repression by the ruling classes."[161] It was largely her idea and efforts that brought together some of the organizations which saw themselves as "democratic rights organizations" into one federation. An immediate cause for trying to establish the Federation was perhaps a police attack on the LHS in June 1981, when its office was raided and its documents confiscated. Cases were registered against the president and secretary of the organization, and three of its activists were arrested and tortured.[162]

After discussions with other similar organizations, a steering committee was formed consisting of representatives of organizations which wanted to be part of

the Federation. A manifesto was adopted by the steering committee on 1 June 1982 following the first conference of the Federation on May 29-30 in Guntur, Andhra Pradesh. This manifesto is also called its Declaration. Five organizations were signatory to the Declaration. These constituent organizations were:

1. Association for Democratic Rights (AFDR) Punjab,
2. Ganatantrik Adhikar Suraksha Samiti (GASS), Orissa,
3. People's Union for Civil Liberties and Democratic Rights (PUCLDR), Rajasthan,
4. Lokshahi Hakk Sanghatana (LHS) Maharashtra, and
5. Organization for the Protection of Democratic Rights (OPDR), Andhra Pradesh.

By 1985 there were two more organizations in the Federation: AIFOFDR, West Bengal unit, and Janadhipatya Avakasa Samrakshana Samiti, Kerala. These two organizations however did not survive long. The one in Kerala could not carry on work due to lack of sufficient number of members, and after a while it did not have an organizational structure. At present there is an effort to revive this unit. Another constituent unit, PUCLDR, Rajasthan, gradually became inactive but was revived on 10 December 1986 with the new name of Janatantrik Adhikar Suraksha Sangathan (JASS), Rajasthan.[163] It has been active ever since. The Federation has also been approached by some people in Delhi, who are keen to start a unit there. Their request is still under consideration.[164]

Structure

The Federation is governed by a steering committee which consists of representatives of all the constituent units. Usually there is one representative from each unit, but there can be more if any particular unit is large or its activities have been numerous or significant. They meet at least twice a year to exchange views and seek out areas of co-operation. Additionally, they also attend each others annual conferences and keep in regular touch with each other. The steering committee is headed by a convenor. This post has been held by Rajani Desai since the inception of the Federation in 1982.

The federating units are independent organizations. All of them have a simple structure with members, an executive committee and office bearers. Decisions are often taken in executive committee meetings. These organizations do not believe in a large membership, and are usually small. LHS, for example, has a total of about 35-40 members. Funds are raised through donations, mostly by the members themselves.[165]

There are three basic requirements for becoming a member of the federation. The organizations (1) must have an existing structure, i.e., office bearers and members; (2) must have done some work consistently over a period of time; and most importantly (3) must accept the Declaration.[166]

Nature, Aims and Activities

The Declaration states that rights abuse stems from the fundamental conflict between the ruling classes and the exploited masses, and that "in India one can easily identify those sections which are democratic and those which are undemocratic, depending on what position they take on political economy."[167] The state is depicted as the agent of the ruling classes, and all its poverty alleviation or developmental programmes are seen as a form of deception. The state becomes even more repressive when people realize this deception and struggle for improving their lot.

> People, as they continue to face untold miseries, are gradually realizing that the fruits of their labour are not reaching them. Their bitter experience is leading the people to unrest and to struggle . . . But the ruling classes and governments, too, have observed the growing unrest among the people . . . They have been trying to deceive the people with slogans such as five-year plans, land reforms . . . but when the people have been seeing through the deception and have come into struggles, the same governments let loose a reign of terror and brutal repression on them. They have even branded these struggles as "law and order" problems.[168]

The Declaration holds that throughout history people have won their rights only through their own struggles and organizations, and that people must be mobilized to assert and defend their democratic rights. Thus the right to struggle is the most

fundamental democratic right. Stemming from this are other rights such as free access to information, free expression, the right to assemble and the right to organize. The Declaration states:

> It is our basic approach to democratic rights that demarcates us from others. Our basic approach is derived from our recognition of the right of our people to struggle against all exploitation and oppression. It is also that which distinguishes us from those who oppose people's struggles in the name of "social peace"; those who campaign for placing all individuals on par failing to see that the question of democratic rights is not a question only of exercising a few formal rights mentioned in the Constitution but it stems from the objective realities of the socio-economic life of the people; as well as those who try to convert the democratic rights platform into a party platform.[169]

The concepts of civil liberties and democratic rights are seen as being distinct. Civil liberties are seen to be stemming from the Constitution, liberties which are given to individuals by the Constitution. The Federation believes that in a society that is vastly unequal and highly exploitative, conditions do not allow civil liberties to exist. Thus the need is to struggle to create such conditions. This is being done by movements like the trade unions, peasants, students or women's movement. The Federation sees its role as supporting and defending these movements against government repression.[170]

It also supports what it calls "democratic organizations . . . of rural poor," "peasant organizations," and "legitimate peasant movement" like the Mazdoor Kisan Sangram Samiti (MKSS) and Maoist Communist Centre (MCC) which operate in central Bihar and were banned by the Bihar government in August 1986 as being extremist organizations.[171] The Federation's approach is not endorsed by other organizations like the PUCL,[172] or even the PRO. This explains why APCLC has not joined the Federation, whereas the Organization for the Protection of Democratic Rights (OPDR), which sympathizes with extreme left-wing politics, is a constituent unit.

The Federation recognizes that it has differences with other organizations on the understanding of issues and on questions of strategy. As a democratic rights organization, it stresses mobilizing people rather than petitioning the government.

It does not have much faith in the constitutionally guaranteed rights; it is also of the firm opinion that the judicial system is ineffective. Civil liberties are equated with merely taking legal action. As the convenor told me: "If it was so simple that justice could be had in the courts, we would be talking about civil liberties." However, in spite of differences, it tries to work with other organizations -- if at times, only to "put up a common front in front of the people."[173] Its final aim is to bring about a change in the political and economic situation of India through struggle which will "take the country towards a better release of productive forces."[174]

Lack of Transparency. Its own experiences with the police and administration have made the Federation an organization which does not easily trust people outside its structure. It is one of the few organization (with PUDR) that has "internal records," which it will not to show anyone except its members. In this category comes their "annual report," which lists all the activities undertaken in the past year, discusses why certain issues were taken up and catalogues the organization's achievements and shortcomings.[175] Some of its activities, however, can be gleaned from its published reports.

Activities

While the Federation and its constituent units investigate similar kinds of issues to other organizations, they always attempt to look at the issues within the broader context of the overall political and economic framework. Further, they do not take up cases of individuals, but issues which concern whole sections of communities.

Like other organizations, the Federation has investigated the problem of communalism, and brought out two reports on Bombay riots showing the complicity of the police.[176] Its Punjab constituent has been active in highlighting the problems in the state. The Federation, in a report, traces out the historical development of communal terrorism in Punjab which led to the present crisis in the state, and points out how electoral politics is responsible for it.[177]

Some of the major issues taken up by the organization concern government policy, and relate to issues like workers rights, drought and starvation deaths, environmental, defence and economic policies.

The very first issues taken up by LHS in 1978-79 was the Industrial Relations Bill which was brought in by the Janata Party of that time which had come to power after the Emergency "but in fact represented the same interests."[178] About ten years later, when another Industrial Bill was sought to be introduced in the parliament, LHS again raised its voice against it arguing it was not in the interest of the workers.[179] More recently it has investigated the system of contract workers or casual workers who are "permanently temporary."[180] It is currently studying the closure of industrial units with a view to showing that this is being engineered by governmental policy, which will lead to a decline in employment and eventual deindustrialization of the country.[181]

LHS has investigated cases of drought in Maharashtra and focussed on government's "callous refusal to initiate any permanent measures to guarantee water to the crops of poor peasants."[182] Its point of view is that droughts are the result of lopsided governmental policies. Ganatantrik Adhikar Suraksha Samiti (GASS) has investigated drought and starvation deaths in Orissa,[183] Organization for the Protection of Democratic Rights (OPDR) has looked at starvation deaths in Andhra Pradesh,[184] and Janatantrik Adhikar Suraksha Sangathan (JASS) has looked at the same phenomenon in Rajasthan.[185]

The Bhopal Gas tragedy which occurred in 1984 was used to exemplify aspects of the relationship between government and multinational corporation (MNC) relationship and to examine the contribution of MNCs to the Indian economy. It concluded that state-MNC collaborations in India were considerably more profitable for the MNCs than for the state, and that the capital intensive nature of such collaborations was wholly inappropriate in a country with a high level of unemployment. It also showed that the Bhopal plant was known to be unsafe and that it was only allowed to operate as a result of a complicity between the politicians and the MNC officials.[186]

When the government decided to construct a missile test range in Baliapal, Orissa, the Federation took up this issue in earnest. It tried to show that the proposal to build a test range was "not only anti-democratic, but also anti-national."[187] The government planned to acquire 102 square kms of land for the construction of the range. This would have required the evacuation of approximately 100,000 residents. The Federation's approach was concerned with preventing the evacuation of residents. It was just as much concerned with the dangers of an expanding nuclear weapons programme. In an article, it traced the history of the programme, condemned the cultivation of a war hysteria by the authorities, condemned the secrecy surrounding the programme. and decried the huge expenditure on military hardware which could be better spent on development programmes for the people. This issue was raised continuously from 1986 as the Federation and especially its Orissa unit became immersed in the conflict over the construction of the range.[188] This finally led to a meeting of local organizations, together with other organizations like PUCL and CPDR and "despite different perspectives, a one-point demand was agreed upon: withdraw the project from Baliapal."[189] But going beyond this particular project, the Federation opposes any nuclear programme or a move towards a nuclear option.[190] It is also against vast defence expenditures and sees the defence services as mere instruments of "domestic repression" who also have "offensive ambitions outside of the country."[191]

The Federation believes that the Indian economy is being virtually run by the International Monetary Fund (IMF). In one report it looks at how the Employment Guarantee Funds are lying unused in Maharashtra on the direction of the IMF.[192] In another report, it argues that repressive domestic legislation is the result of IMF conditionalities, which are being kept a secret.[193]

> The conditions created by the IMF loan will force people to enter into struggle. To effectively implement the IMF conditionalities the government will have to repress such just struggles . . . Lokshahi Hakk Sanghatana calls upon the people to demand the right to information on such issues that affect their lives.[194]

Its main concern is how IMF loans affect the democratic rights of the people.

Publication. From 1978 to mid-1981 LHS used to bring out a monthly paper in Marathi called *Lok Hakk.* After the police attack on LHS in June 1981, this publication stopped as its editor left the organization. *Democratic Rights* was started as the official journal of the Federation in September-October 1984 as a bi-monthly. It changed its name to *In Defence of Democratic Rights* (*IDDR*) in July-August 1986. From August 1993, *IDDR* has become a monthly. While it primarily covers the activities of the constituent units, it also gives coverage to the activities of other rights organizations.

Conclusion

The national-level organizations in post-independent India emerged due to the political situation in the early 1970s. CFD and PUCLDR, in particular, were established in direct response to the authoritarian politics of Indira Gandhi. PUCL and PUDR emerged from PUCLDR, and PRO emerged from PUCL. Thus four of the six organizations have a common lineage.

CFD initially played a crucial role in providing a platform for members and leaders of opposition political parties. Since then it has been involved with the political process (or electoral politics) more than any other organization. This is in contrast to PUCL, a sister organization, which refrains from any political activity. The formation of PUDR can be seen as simply a clash of egos or as evidence of a continuing struggle to work out a credible, viable relationship with political parties. It can be argued that the split reflects poorly on the participants or leaders of organizations: that they are not tolerant enough to accommodate other points of view, but it can also be argued that the parting of ways of PUCL and PUDR was perhaps advantageous from a pragmatic standpoint. Now they have a successful working relationship. The split has also contributed to redefining and broadening the human rights agenda.

PUDR and PRO are similar in the sense that they are small organizations and usually take up cases of sections of communities rather than of individuals. What

makes them very dissimilar is the secretive nature of PUDR, a characteristic it shares with AIFOFDR.

AIFOFDR is the only federation of rights organizations in the country, but it is noteworthy that none of the major organizations are part of this federation. This becomes clearer if IPHRC can be seen as an opposite or parallel organization. It certainly is the case that those members or groups who belong to AIFOFDR are not a part of the IPHRC.

Though IPHRC has taken up only a few selected cases, it has nevertheless made an impact on the human rights scene in India for the simple reason that its investigations are conducted by former judges of the High Courts or the Supreme Court.

Four out of six national organizations are situated in Delhi, where they have better access to administrators and policy makers, and more importantly, the media. The two organizations (CFD and PUCL) with branches in all parts of the country emphasize the paramount importance of local units. It is at local levels that violations take place. These would go unnoticed but for the vigilant activists there. It is their task to initiate procedures for intervention or pass on relevant information to the central units for wider, and sometimes, more effective campaigns.

In the next chapter I am going to look at regional organizations. Some of them were founded even before the establishment of CFD, the oldest national organization.

NOTES

1. Barnett R. Rubin, "The Civil Liberties Movement in India," in *Asian Survey*, vol. 27, no. 3, March 1987, p. 373; see also Smitu Kothari, "An Interview with V. M. Tarkunde," in *Rethinking Human Rights: Challenges for Theory and Action*, edited by Smitu Kothari and Harsh Sethi, New York: New Horizons Press and Delhi: Lokayan, 1989, p. 141.

2. V. M. Tarkunde, "In Defence of Freedom," in *Expanding Governmental Lawlessness and Organized Struggles: Violation of Democratic Rights of the Minorities, Women, Slum Dwellers, Press and Some Other Violations,* edited by A. R. Desai, Bombay: Popular Prakashan, 1991, p. 303.

3. Smithu Kothari, op.cit.

4. Kakaraia Sitharamam, "Civil Rights Movement in India." PhD Thesis. Centre for Social Studies, South Gujarat University, Surat, 1993, pp. 47-48.

5. Sarvodaya means "upliftment of all." This movement was started by Gandhi, and continues in an organized form at the grassroots level.

6. Tarkunde, op.cit.

7. The Radical Humanist Association (RHA) was founded in 1969 by Tarkunde, C. T. Daru and others. A different organization from RHA was needed as many of the Gandhians and JP's followers did not share RHA views on rationalism and God. N. D. Pancholi, Interview with author, New Delhi, 16 March 1994. Tape recording.

8. Smitu Kothari, op.cit., p. 142; Tarkunde, op.cit.

9. Pancholi, interview.

10. Smitu Kothari, op.cit.

11. Rubin, op.cit., p. 374.

12. Tarkunde, op.cit; Pancholi, interview.

13. JP served as president till his death. He was succeeded by M. C. Chagla, V. V. John, and Tarkunde. Since 1986 Tarkunde has been the advisor, and Kuldip Nayar the president of CFD. CFD, *Purpose and Programme,* New Delhi: CFD, 1994. Booklet.

14. CFD, "Report and Resolutions: All India Conference, 27-28 December, 1981, Hyderabad," New Delhi: CFD, 1981, p. 1.

15. CFD, "Resolutions: All India Conference, 6-8 June 1980, Bangalore," New Delhi: CFD, pp. 1-2.

16. CFD, "Report and Resolutions: Fifth All India Conference, 27-28 March, 1983," New Delhi: CFD, p. 4.

17. Pancholi, interview.

18. CFD, "Report: All India Conference, 6-8 June 1980," op.cit., p. 2. In January 1980, it constituted a committee to educate the people about democracy. This committee brought out a booklet focussing on the problems of democracy and appealed to the people to participate in a movement to restore and safeguard

democracy See CFD, *ABC of Democracy,* New Delhi: CFD, 1980. Booklet. In Hindi.

19. For details, see CFD, *Education for Our People: A Policy Frame for the Development of Education (1978-87),* New Delhi: Allied Publishers, 1987.

20. CFD, "Report and Resolutions: All India Conference, 27-28 December, 1981, Hyderabad," New Delhi: CFD, 1981, pp. 2-3.

21. Ibid.; also CFD, "Report and Resolutions, Fifth All India Conference, 27-28 March, 1983," New Delhi: CFD, p. 5.

22. A syllabus was prepared by Tarkunde, and at least one study camp on total revolution was organized at Nagpur in October 1983. Another study camp was scheduled to be held in Dehradun in August-September 1984, but was postponed. There is no evidence that more camps were organized. See CFD, "Syllabus for Study Camps on Total Revolution," New Delhi: CFD, 1984; CFD, "Report and Resolutions: Fifth All India Conference, 27-28 March 1983." New Delhi: CFD, p. 2. CFD, "Report: Action Taken on the Various Decisions," New Delhi: CFD, 8 March 1985, p. 1.

23. CFD, "Newsletter," New Delhi: CFD, 16 August 1978, p. 5; CFD, "Report and Resolutions: All India Conference, 27-28 December 1981," New Delhi: CFD, 1981, p. 2.

24. CFD, "Report: Action Taken on the Various Decisions," New Delhi: CFD, 8 March 1985, p. 2.

25. A political movement led largely by students for more regional autonomy in Assam, a state in the northeastern part of of India.

26. CFD, "Report and Resolutions: Fifth All-India Conference, 27-28 March 1983." New Delhi: CFD, 1983, p. 9.

27. CFD, "Resolutions: All India Conference. 27 October 1985, Delhi."New Delhi: CFD, 1985, p. 4.

28. Ibid.

29. CFD, "Report of the Anti-Corruption Committee." New Delhi: CFD, 25 August 1974, pp. 1-2. Typed, photocopied.

30. In August 1974, JP appointed a Committee on Electoral Reforms. In August 1977 a Committee on Election Expenses was formed. See CFD, *Report of the Committee on Election Expenses,* New Delhi: CFD, 19 March 1978. Booklet.

31. CFD, "Report: All India Anti-Corruption Conference, 9-10 October 1982, Bangalore," New Delhi: CFD, p. 1. Voters' Councils were sought to be established in 1982 before the state elections in Himachal Pradesh, West Bengal, Andhra Pradesh, Kerala, Haryana and Delhi to ensure that the elections were conducted in a fair manner. CFD, "Report: National Council Meeting, 8 March 1982, Madras," New Delhi: CFD, p. 2.

32. CFD, "Report: All India Anti-Corruption Conference, 9-10 October 1982, Bangalore," New Delhi: CFD, p. 3.

33. Pancholi, interview.

34. CFD, "Circular," New Delhi: CFD, 7 November 1989, p. 1; CFD, "Circular," New Delhi: CFD, 2 December 1989, p. 1-4.

35. Pancholi, interview.

36. Tarkunde, "In Defence of Freedom." op.cit., p. 304.

37. For instance, C. T. Daru, the then general secretary of RHA and a leading CFD activist in Ahmedabad was arrested in July 1976.

38. A five member constitution bench was convened to hear the Attorney General's challenge against seven high court decisions to allow habeas corpus petitions. In its judgement of 28 April 1976, the majority bench upheld the government's authority under the Emergency to detain its political opponents without subsequent review. According to Chief Justice Ray, the Emergency provisions themselves were the rule of law under the Emergency. Tarkunde, "In Defence of Freedom." op.cit., p. 304; see also Lloyd I. Rudolph and Susanne Hoeber Rudolph, *In Pursuit of Lakshmi: The Political Economy of the Indian State,* Chicago: The University of Chicago Press, 1987, pp. 114-15.

39. M. C. Chagla, vice president of CFD (and later president), in a public meeting in Bombay on 6 July 1978 demanded immediate prosecution of Indira Gandhi on the basis of the findings of the Shah Commission, an investigation instituted by the Janata governmnet. Similarly, in Calcutta on 26 June 1978 the West Bengal unit passed a resolution demanding her trial. See CFD, "Newsletter," op.cit., p. 6.

40. It had several members from other organizations as well. They were: Nabakrishna Chowdhury from Orissa; Kaloji Narayan Rao from Warrangal; M. V. Ramamurthi, K. G. Kannabiran, Balwant Reddy and K. Pratap Reddy from Hyderabad; B. G. Verghese and Arun Shourie from Delhi. CFD, "Encounters are Murders: Interim Report of the Civil Rights Committee." New Delhi: CFD, 9 June 1977, p. 1.

41. Ibid., p. 2.

42. Pancholi, interview.

43. See CFD, "The Garhwal By-Election: Report of a Fact-Finding Committee," New Delhi: CFD, 22 October 1981; CFD, *A Report to the Nation: The Truth About Riots in Delhi,* New Delhi: CFD, 1985. In Hindi. CFD, "Report: Police Firing at Arwal, 19 April 1986," New Delhi: CFD, 1986.

44. CFD, Report: Tenth Biennial All India Conference, 3-4 April 1993, Patna." New Delhi: CFD, 1993, p. 1.

45. CFD, "Report and Resolutions: All India Conference, 27-28 December 1981, Hyderabad," New Delhi: CFD. 1981 p. 4.

46. CFD, "Report and Resolutions: Fifth All India Conference, 27-28 March 1983," New Delhi: CFD, 1983, pp. 2-3; CFD, "Circular," New Delhi: CFD, 1 February 1986. p. 1.

47. CFD, "Newslatter," New Delhi: CFD, 16 August 1978, p. 2; CFD, "Resolutions: All India Conference, 6-8 June 1980, Bangalore," New Delhi: CFD, 19 July 1980, pp. 1-4.

48. Pancholi, interview.

49. Decision to start the journal wass taken in the National Executive Council meeting on 8-9 July 1978 in Lucknow; decision to make it a joint publication was taken in the National Executive Council meeting of 29 December 1983.

50. Tarkunde and Shourie were authorized to reconstitute the editorial board. Both were members of CFD and PUCL. CFD, "Minutes of the Meeting of the National Council, 29 December 1983, Bombay," New Delhi: CFD, 2 January 1984. p. 3.

51. Nihal Singh used to give Rs. 20,000 per year for the bulletin, but discontinued it in 1987. Pancholi, interview.

52. In 1983 it was resolved that All India conferences would be held every two years. CFD, "Report and Resolutions: Fifth All India Conference, 27-28 March 1983," New Delhi: CFD, 1983, p. 5.

53. See CFD, *Purpose and Programme,* New Delhi: CFD, 1994. Booklet. In 1981, the NEC had 61 members, who belonged to thirteen different states.

54. Pancholi, interview.

55. Ibid.

56. This is a rough estimate as the local units at times either do not keep a list of members of do not pass it on to the Central office in New Delhi. Ibid.

57. When the National Executive Council met at Lucknow on 8 July 1978, a large number of delegates from 25 districts of Uttar Pradesh assembled. CFD, "Newsletter," op.cit., p. 1.

58. CFD, "Report: Action Taken on the Various Decisions," New Delhi: CFD, 8 March 1985, p. 7.

59. CFD, "Report: Tenth Biennial All India Conference, 3-4 April 1993, Patna," New Delhi: CFD, p. 1.

60. Ibid., p. 5.

61. Pancholi, interview.

62. CFD, "Newsletter," op.cit., p. 2.

63. CFD, "Minutes of the Meeting of the National Council, 29 December 1983, Bombay," New Delhi: CFD, 2 January 1984. p. 4.

64. CFD, "Report: Tenth Biennial All India Conference, 3-4 April 1993, Patna," New Delhi: CFD, p. 8; It is not known if any organizations have become affiliated to CFD or not.

65. In 1983 for example, CFD received Rs. 10,000 for general expenses, Rs. 10,000 for its Hindi journal, Rs. 17,500 for the expenses of the Committee for Investigation of Disabilities of Muslim Women, and Rs. 17,500 for the expenses of the Committee on Law for Political Parties. The total expenditure of CFD in 1983 was almost Rs. 40,000 with a bank balance of almost Rs. 80,000. See CFD, "Statement of Receipts and Payments," New Delhi: CFD, 1983.

66. Pancholi, interview.

67. See CFD, "Statement of Receipts and Payments," op.cit.; see also CFD, "Report: Tenth Biennial All India Conference, 3-4 April 1993, Patna," New Delhi: CFD, 1993, p. 5.

68. Pancholi, interview.

69. Tarkunde, "In Defence of Freedom." op.cit., p. 305.

70. Jyoti Punwani, "The Real Opposition," in *Expanding Governmental Lawlessness and Organized Struggles: Violation of Democratic Rights of the Minorities, Women, Slum Dwellers, Press and Some Other Violations*, edited by A. R. Desai, Bombay: Popular Prakashan, 1991, p. 299.

71. Pancholi, interview.

72. PUCL, "Constitution (Incorporating amendments upto 1 November 1992)," New Delhi: PUCL, 1992, p. 3.

73. Prabhakar Sinha, Interview with author, New Delhi, 7 February 1994. Tape recording.

74. PUCL, *Know PUCL*, New Delhi: PUCL, 1992 (first published 1988), p. 10.

75. Sinha, interview.

76. Usually the Naxalites accept criticism from PUCL as its reports are seen to be unbiased. However, this particular report caused some resentment. Ibid.

77. The JP Memorial Lecture has been delivered by Dada Dharmadhikari (1981), Achyut Patwardhan (1982), Nani Palkhiwala (1983), Rajmohan Gandhi (1984), P. N. Haksar (1985), Y. V. Chandrachud (1986), Rajinder Sachar (1987), O. Chinnappa Reddy (1988), V. R. Krishna Iyer (1989), Rajni Kothari (1990), K. G. Kannabiran (1991), Nikhil Chakravarty (1992), and V. M. Tarkunde (1993).

78. PUCL, *Know PUCL,* op.cit., p. 5.

79. Ibid., p. 15.

80. Ibid., pp. 18-19.

81. Sinha, interview.

82. In a report on Bhopal riots, PUDR made the same point, and questioned the usefullness of a FFC report when it is difficult to arrive at reasonably accurate conclusions. See Sanskritik Morcha and PUDR, *Bhopal Riots: A Report,* New Delhi: Sanskritik Morcha and PUDR, April 1993. p. 1.

83. PUCL, *Know PUCL,* op.cit., p. 10.

84. Yogesh Kamdar, Interview with author, Bombay, 4 March 1994. Tape recording.

85. Kamdar, interview.

86. Maya Prabhu, Interview with author. New Delhi, 14 March 1994, Tape recording.

87. Sinha, interview.

88. Prabhu, interview.

89. Sinha, interview.

90. PUCL, *Know PUCL,* op.cit., p. 10.

91. Ibid., p. 11.

92. Sinha, interview.

93. Around this time, February-March 1994, the Delhi unit had received a donation of Rs.3000. The treasurer told me that this amount would be more than sufficient for at least a year. Prabhu, interview.

94. Sumanta Banerjee was part of the Naxalite movement in West Bengal; he was arrested during the Emergency and spent almost a year in jail. His case was dismissed after the Left Front government came to power in West Bengal. Sumanta Banerjee, Interview with author, New Delhi, 12 March 1994. Tape recording.

95. Ibid.

96. Sinha, interview.

97. Aurobindo Ghose, Interview with author, New Delhi, 21 February 1994. Tape recording.

98. Kamdar, interview.

99. PUDR spokesperson, Interview with author, New Delhi, 5 February 1994. Tape recording.

100. PUDR, "Perspective on Civil Rights Movement," New Delhi: PUDR, 1981, pp. 5-6.

101. PUDR spokesperson, interview.

102. PUDR, "Perspective on Civil Rights Movement," op.cit.

103. PUDR spokesperson, interview. This does not mean that it does not take up cases of individuals. For example, it has investigated a large number of custodial deaths in and around Delhi.

104. Banerjee, interview.

105. PUDR spokesperson, interview.

106. For example, see PUDR, *Lawless Roads: A Report on TADA 1985-1993,* New Delhi: PUDR, September 1993.

107. PUDR, *1984 Carnage in Delhi: A Report on the Aftermath,* New Delhi: PUDR, November 1992; also PUDR, *Walled City Riots: A report on the Police and Communal Violence in Delhi 19-24 May 1987,* New Delhi: PUDR, June 1987; Sanskritik Morcha and PUDR, *Bhopal Riots,"* op.cit; PUDR, *Bhagalpur Riots,* New Delhi: PUDR, April 1990.

108. PUDR spokesperson, interview.

109. See for example, PUDR, *Bitter Harvest: The Roots of Massacre in Central Bihar,* New Delhi: PUDR, August 1992; PUDR, Lawless Roads, op.cit., 1993; *Invisible Crimes: A Report on Custodial Deaths 1980-89,* New Delhi: PUDR, October 1989; PUDR, *In Pursuit of Life: A Report on the Aftermath of Custodial Deaths in Delhi,* New Delhi: PUDR, October 1991.

110. See PUDR, *The Other Face of Asiad '82,* New Delhi: PUDR, October 1982; A. G. Noorani, "Freedom from Exploitation," in *Economic and Political Weekly,* vol.27, no. 42, 16 October 1982; Rubin, op.cit., pp. 390-91; J. S. Gandhi, "Human Rights Efforts of Professionals in Contemporary India: A Sociological Examination of Some Select Evidence." Paper presented at IPSA Human Rights Conference, The Hague, 1-3 June 1987, pp. 10-11. Unpublished paper.

111. See PUDR, *Sadda Hak, Ethey Rakh: A Report on refugee Women Workers of Delhi,* New Delhi: PUDR, April 1989; PUDR, *Waiting and Waging: A Tale of Life, Death and Justice,* New Delhi: PUDR, June 1989; PUDR, *Tall Chimneys and Dark Shadows: A Report on the Lives and Struggles of Workers in Bhilai,* New Delhi: PUDR, June 1991; PUDR, *Renusagar: A Report on Workers Struggle,* New Delhi: PUDR, October 1991; PUDR, *Dalla: Privatization, Police Firing and Workers Struggle,* November 1991.

112. See PUDR, *The Fight for Forests: A Review of Forest Policy,* New Delhi: PUDR, 1982. In Hindi; PUDR, *Gandhamardhan Mines: A Report on the Environment and People,* New Delhi: PUDR, November 1986. In this report, it looked at the problem in a specific mining area in Orissa, and among other things, called for suitable legislation for the protection of environment from the impact of mining.

113. See PUDR, *Inside the Family: A Report on Democratic Rights of Women,* First published March 1984, reprinted, New Delhi: PUDR, January 1987.

114. Banerjee, interview.

115. Ibid.

116. The close nature of working was mentioned by more than one person I spoke to. One of them, who attended a few of their meetings said that though their work was substantial and they seemed committed, "they are a bit over the top as far as their Leftism is concerned -- which I wasn't comfortable with." She later joined PUCL. Prabhu, interview.

117. Kamdar, interview.

118. Ghose, interview.

119. Ibid.

120. Ibid.

121. The following were elected as office bearers: Latika Lahiri, president; Dal Chand, vice-president; Aurobindo Ghose, general secretary; Khazan Singh Bhoriya, secretary; and Navtej Singh, treasurer. PRO, "Annual Report: 1988-89," New Delhi: PRO, 8 April 1989, p. 1.

122. PRO, "Constitution." New Delhi: PRO, 1988, p. 1.

123. PRO, "Annual Report: 1988-89," New Delhi: PRO, 8 April 1989, p. 2.

124. Ghose, interview.

125. In February 1988, a team visited Jodhpur jail twice, brought out a report demanding immediate release of detainees and improvement of jail conditions. See *The Statesman,* New Delhi, 16 March 1988; *Indian Express,* New Delhi, 17 March 1988; PRO, "Press Release," New Delhi: PRO, 20 July 1989.

126. Ghose, interview.

127. For PRO condemnation of the 59th Amendment to the Indian constitution, see *Times of India,* New Delhi, 16 March 1988; for extension of President's rule in Punjab, see, PRO "Press Release," New Delhi: PRO, 3 April 1990; for press censorship, see *Indian Express, The Statesman, The Tribune* and *Navbharat Times,* New Delhi, 18 February 1992.

128. See PRO, "The Question of Indian Citizenship: Rights of the Stateless Chakmas and Hajongs of Arunachal Pradesh," New Delhi: PRO, 1993, especially pp. 13-15 for a list of atrocities.

129. See PRO, "Brief Report on Deprivation of Food Rations, Dis-enfrachisement and Police Harassment of the Bengali Muslims of New Seemapuri, East Delhi," New Delhi: PRO, 3 April 1993; see also *The Telegraph* and *Indian Express*, New Delhi, 4 April 1993.

130. In March 1987, it condemned repression on Delhi Transport Corporation workers: it sent a five-member team to investigate the killing of two striking workers and the inaction of the police. See also PRO, "Repression of Workers in Hapur: Report of a Fact-Finding Team," New Delhi: PRO, 12 January 1990.

131. In May 1986 it organized a public meeting in Delhi University to protest against the passing of the Muslim Women's Bill. In October 1987, it protested against an incident of sati at Deorala.

132. See Human Rights Campaign on Narmada (HRCN), "Drowning of Manibeli: A Report by an Observer Team," New Delhi: HRCN, 31 May 1993; see also Campaign Against World Bank and Destructive International Aid (CAWBADIA), "Report of the National Consultation on Strategies," Badwani, Madhya Pradesh: CAWBADIA, 20-22 January 1994.

133. See *Times of India, Indian Express* and *The Hindu,* New Delhi, 25 November 1988.

134. PRO and Forum for Communal Harmony, "Truth About Jaipur Violence: Brief Report on Findings of Joint Investigation Team," New Delhi: PRO and Forum for Communal Harmony, January 1990.

135. PRO, "Press Release," New Delhi: PRO, 23 September 1988.

136. See PRO and Mahila Dakshata Samiti (MDS), "The Case of Abduction of a Widely Respected Lady Lecturer of Hissar, Haryana: Political Clout, Police Cover-up, Press Vigilence and the Assertion of Democratic Rights -- Report of a Joint Investigation Team," New Delhi: PRO and Mahila Dakshata Samiti, 28 June 1993; see also *Indian Express,* New Delhi, 29 June 1993.

137. See PRO, Letter to Union Minister for Home Affairs, 20 July 1993.

138. It has protested the intimidating of Nandita Haksar, an advocate and activist in Manipur. See PRO, "Press Release," New Delhi: PRO, 7 February 1989. For the arrest of two activists in Tamil Nadu, see *The Hindu* and *The Statesman,* New Delhi, 20 September 1991; for the arrest of two activists in Gujarat, see *Janasatta, The Statesman, Patriot and Pioneer,* New Delhi, 10 February 1992, and *Indian Express,* New Delhi, 11 February 1992; and for the arrest of six activists in Madhya Pradesh, see PRO, "Press Release," New Delhi: PRO, 3 November 1992.

139. PRO, "Press Release," New Delhi: PRO, 30 January 1992.

140. C.S. Kalra, Interview with author, New Delhi, 21 February 1994.

141. Ghose, interview.

142. For details of this case, see PRO, "Exploitation, Oppression and Corruption and the Struggle for Justice in a Haryana Village: A Report to the Nation," New Delhi: PRO, June 1986.

143. Ghose, interview.

144. Ibid.

145. Kalra, interview.

146. Ghose, interview.

147. P.A. Sebastian, "The Shifting Modalities of Struggle -- The Setting Up Of The Human Rights Tribunal," in *Rethinking Human Rights: Challenges for Theory and Action,* edited by Smitu Kothari and Harsh Sethi, New York: New Horizons Press and Delhi: Lokayan, 1989, p. 123.

148. Indian People's Human Rights Commission (IPHRC), *Newsletter,* Bombay, 10 January 1987, p. 4.

149. Ibid., p. 2.

150. Ibid.

151. Ibid., p. 1.

152. Ibid., p. 2.

153. IPHRC, *Report of the Indian People's Human Rights Tribunal on the Chintapalli Arson Case,* Bombay: IPHRC, 18 October 1988, p. 8.

154. This happend in spite of assurances from N. T. Rama Rao, the chief minister of Andhra Pradesh, who earlier written to say that his government would extend full co-operation to the Tribunal. Ibid. pp 9-12. See also IPHRC, *Report of the Indian People's Human Rights Tribunal on the Meerut Riots,* Bombay: IPHRC, 1989, p. 16. In this case, too, the Tribunal noted the lack of co-operation from the district administration.

155. One such fact finding team had been sent by CFD, consisting of Justice Rajinder Sachar and Lt. Gen. S. K. Sinha after it received a telegram from Karpoori Thakur (a former chief minister of Bihar) that 19 people had been killed in Arwal in a police firing. The team "found abundant evidence to establish that the police firing at Arwal was excessive and uncontrollable." For details, see CFD, "Report: Police Firing at Arwal, 19 April 1986," New Delhi: CFD, 1986.

156. See IPHRC, *Report of the Indian People's Human Rights Tribunal on Arwal Massacre,* Bombay: IPHRC, 30 July 1987.

157. IPHRC, *The Chintapali Case,* op.cit., p. 7.

158. IPHRC, *The Meerut Riots,* op.cit., pp. 16-17.

159. IPHRC, *Cauvery: What Language Does She Speak? Report of the Indian People's Human Rights Tribunal on Violence in Bangalore and Other Parts of Karnataka and Tamil Nadu in December 1991.* Bombay: IPHRC, 16 May 1992.

160. See IPHRC, *The People's Verdict: An Enquiry into the Dec '92 and Jan '93 Riots in Bombay,* 2nd edition, Bombay: IPHRC, 1994.

161. Rajani X. Desai, Interview with author, Bombay, 28 February 1994. Tape recording.

162. Ibid.

163. *In Defence of Democratic Rights (IDDR),* November-December, 1986, p. 12.

164. Rajani Desai, interview.

165. Ibid.

166. Ibid.

167. Ibid.

168. AIFOFDR, *Declaration of All India Federation of Organizations for Democratic Rights,* Bombay: AIFOFDR, July 1982, pp. 5-6. Booklet.

169. Ibid., p. 8.

170. Rajani Desai, interview.

171. Lokshahi Hakk Sanghatana (LHS), *Repression In Bihar: A Collection of Documents,* Bombay: LHS, 1990, p. 6.

172. In the early 1980s, there was serious disagreement between PUCL and AIFOFDR on the question of violence. Kamdar, interview. See also *PUCL Bulletin,* vol. 7, no. 4, April 1987, pp. 10, 16.

173. Rajani Desai told me that 90 per cent of the work done for reports brought out on Bombay riots of December 1992 and January 1993 was done by the Federation, yet CPDR's name appeared on them as it was important to put up a common front at that time.

174. Rajani Desai, interview.

175. Ibid.

176. LHS, *Salt in the Wounds: Communalism and the State in Bombay,* Bombay: LHS, July 1993.

177. AIFOFDR, *Punjab: People Fight Back,* Bombay: AIFOFDR, April 1987. See also *IDDR,* May-June 1987, pp. 1-9; *IDDR,* July-August 1987, pp. 10-16.

178. Rajani Desai. interview.

179. *IDDR.* March-April 1987, pp. 11-13.

180. LHS, *Contractor Raj at Bombay Airport: A Fact Finding Report.* Bombay: LHS, April 1989.

181. Rajani Desai, interview.

182. LHS, "The Maharashtra Drought Employment Guarantee Scheme and the World Bank." Bombay: LHS, March 1992, p. 1. Typed, Photocopied.

183. *IDDR.* July-August 1986, pp. 9-12; *IDDR,* July-August 1987, pp. 1-4.

184. *IDDR,* May-June 1985, p. 11.

185. *IDDR,* May-June 1988, pp. 7-12.

186. *IDDR,* February-March 1985, p. 9.

187. Rajani Desai, interview.

188. See *IDDR,* September-October 1985, pp. 1-4. See also *IDDR* July-August 1986, pp. 13-14; *IDDR,* November-December 1986, pp. 3-10; *IDDR,* July-August 1988, pp. 4-6.

189. LHS, *Assault in the Name of Defence: Government Plans for Baliapal,* Bombay: LHS, January 1989, pp. 17-18.

190. *IDDR,* July-October 1989, pp. 18-19.

191. *IDDR,* March-April 1986, pp. 1-8.

192. LHS, "The Maharashtra Drought Employment Guarantee Scheme and the World Bank." Bombay: LHS, March 1992.

193. LHS, *Behind Our Backs: The IMF Loan and Democratic Rights.* Bombay: LHS, 1991, pp. 8, 24-27.

194. Ibid., Introduction.

5

Regional Organizations

In this chapter I look at four organizations: Association for the Protection of Democratic Rights (APDR) West Bengal, established in 1972; Andhra Pradesh Civil Liberties Committee (APCLC), established in 1973; Committee for the Protection of Democratic Rights (CPDR), a Bombay-based organization, established in 1977; and Naga People's Human Rights Movement (NPMHR), established in 1977-78 (see Table 5.1)

Table 5.1

Regional Organizations

Organization	Place	Date of Establishment
APDR	Calcutta	25 June 1972
APCLC	Hyderabad	January 1974
CPDR	Bombay	April 1977
NPMHR	Kohima	26 November 1978

Note: NPMHR was first established in New Delhi.

APCLC and APDR are primarily active within their respective states, while CPDR tends to confine its activities to Bombay. All three organizations, however, also take up cases from outside their states, especially in the form of joint fact-finding teams. NPMHR is concerned mainly with army atrocities on Nagas, both within and outside the state of Nagaland.

The Naxalite Movement

But first, let me begin by looking at the Naxalite movement which was the immediate reason for the establishment of APDR and APCLC in the early 1970s.

The Naxalites are extremist political groups, following the Marxist-Leninist ideology. They are called Naxalites as the "armed peasant uprising" first began at Naxalbari, a small village in the northern part of West Bengal in early 1967. Their aim was to capture political power through armed struggle and by creating pockets of "liberated zones" in the country, with the final aim of liberating the whole country.[1]

It was never a very centralized movement, and soon split into various factions. These groups are still active in parts of West Bengal, Bihar and Andhra Pradesh under various names such as Mazdoor Kisan Sangram Sangathan (MKSS),[2] Maoist Communist Centre (MCC) in Bihar, and Peoples War Group (PWG) in Andhra Pradesh. They have armed squads, students' wings, cultural wings -- and are quite popular in some parts, especially as they hold "peoples courts" and give instant relief to petitioners, etc. In some parts they also carry on forcible programmes of land redistribution. Though these organizations are now officially banned,[3] it does not really make a difference in their activities as in any case they worked "underground."

What is relevant here is that the state took severe measures to suppress the movement, and in the process became increasingly repressive. Many areas were declared "disturbed", special laws were brought in to deal with the situation, and a large number of people, including activists were detained under the new strict laws.

This situation consequently led to the formation of two significant organizations in West Bengal and Andhra Pradesh, both quite independent of each other. In West Bengal it was the Association for the Protection of Democratic Rights (APDR) and in Andhra Pradesh it was Andhra Pradesh Civil Liberties Committee (APCLC). A further organization is the Organization for the Protection of

Democratic Rights (OPDR). This is also in Andhra Pradesh, but is much smaller, and has suffered from organizational splits.

Though the Naxalite movement spread to nearly ten states, it was only West Bengal and Andhra Pradesh that saw the rise of significant organizations. Three reasons can be put forward as explanations for this phenomenon: a) that the intensity of police repression in these two states was greater than in other states,[4] b) these two states had a tradition of mass movements, and c) the presence of "a slender, but concerned intellectual support for the issues raised by the movements."[5]

These organizations were formed in spite of the fact that the Communist Party of India (Marxist-Leninist) [CPI (ML)], the parent political organization of various Naxalite groups, was itself heading for a split by 1970. Their policy regarding mass organizations and rights organizations was rather ambiguous, and there was division within the Naxalite movement on this question.

1. Association for the Protection of Democratic Rights (APDR)

The Beginning

The West Bengal Committee of CPI (ML) was opposed to any mass organisations even at the end of 1973 and therefore did not attempt to establish a rights organization.[6] This initiative was taken by a few individuals who had been part of the Naxalite movement. Subhash Ganguly was one such person. While he was in prison on account of Naxalite activities, he and some of his colleagues felt that there was a desperate need to organize public protest over indiscriminate police killings.[7]

From the end of 1970 to the end of 1971, there were at least five mass murders in and around Calcutta. The worst mass murder was in Baranagar, a suburb in North Calcutta, where more than a hundred persons including women and children were killed on 13 August 1971. Half-dead bodies were thrown in the Ganges.[8] Police

killings reached a peak in 1972. According to Subhash Ganguly, 1969 and 1970 were the worst years:

> The situation was of all pervading terror. In large parts of Calcutta and the suburbs, the houses were surrounded and searched. No one was safe. There was cold-blooded murder. On what basis the selection was done is also not clear. The most savage part of it was directed against what was called the Naxalite movement . . . It was not only the police but also the quite professional gangs of criminals of Congress. It ceased to be news -- young people being shot by the police. It reached a horrible proportion. And what was more horrible was that there was no protest -- no open protest. That came much later.

Ganguly recognized that if protest had to be effective, it would have to be on the grounds of civil liberties alone, rather than on party political lines. As he was closely associated with the Naxalite movement, there was a need to include people who were not so identified. He was not very optimistic about being able to organize public protest, and perhaps if he had not met Sushil Banerjee after his release from prison at the end of 1971, APDR might have never been formed.[9]

Sushil Banerjee was called "Dadu" (grandfather) by everybody out of respect. He was a veteran freedom fighter having spent about 20 years in jail before the Indian independence, and was now rather old (more than 70 years of age). He did not belong to any political party. He agreed to do whatever he could to help the young activists and eventually became the moving force behind the establishment of APDR. He led and inspired Subhash Ganguly, and his friends Bharti, Sanjay Mitra, Dilip Chaudhury and three or four others into action.[10] It was this small group of activists who did all the work, with Dadu to inspire them.

Gathering Support. This small group of activists then set about to enlist the support of some well-known people in Calcutta. This was not an easy task. At least two leading public figures in West Bengal refused to lend them their support. Shomen Thakur, a prominent cultural figure in West Bengal, connected to the family of Rabindranath Tagore, and an old supporter of the Left, entered into a debate with them about preventive detention measures. He argued that strict laws were necessary and the police had the right to counter-attack if they were attacked.

He did not lend his name to APDR. Nor did Satyajit Ray, an internationally known film director, as he was unsure of the validity of Naxalite action.[11]

However, there were others who did lend them support, people like Mrinal Sen, Uttpal Dutt and Bijoy Bose. Mrinal Sen, a leading film director, gave his unconditional support from the very beginning. Uttpal Dutt, a playwright and actor, also lent his name. Similarly, Bijoy Bose, a member of the Medical Mission sent to China in 1930s by the Indian National Congress (INC), extended his support. By the middle of 1972, they had knocked on many doors and had gathered sufficient "names" to start an organization. Some other persons associated with APDR were Bhakti Bhushan Mandal, Kanha Chatterjee. Amiya Bose, Pramod Sengupta and Biren Banerjee.[12]

An Office for APDR. Amongst the various persons approached to lend their names was Kapil Bhattacharya.[13] When Dadu and others met him to enlist his support, he readily agreed to lend his name. Then as they talked of the problems in setting up an organization, Kapil Bhattacharya volunteered the use of his house. This was an unexpected boon for the nascent organization. The front room of Kapil Bhattacharya's house was set aside as an office. The same room has now been used as APDR office for more than 20 years -- with some gaps in between.[14]

In the first instance the office was shifted because Kapil Bhattacharya was pressurised by his friends, some of whom were old Communist party stalwarts. He asked that the office be shifted to some other place. It was shifted to Dr. Amiya Bose's place in Ballyganj Place. It remained there for a few months. From there it went to Sanjay Mitra's place in central Calcutta; then to Bhakti Bhushan Mandal's place. After 1977, when the Emergency was withdrawn, the office came back to Kapil Bhattacharya's house -- and has stayed there since. Kapil Bhattacharya also agreed to become a member, and subsequently the president of APDR. He continued to be the president till his death in 1990.[15]

First Meeting. In June 1972, in response to perceived excesses of the state machinery and a deterioration in the rights situation, a number of intellectuals, artists and professionals came together and prepared a 22-point demand sheet,

which included the release of political prisoners, repealing of the Maintenance of Internal Security Act (MISA), and judicial enquiries into "encounter deaths."[16]

Basing its programme on the same charter of demands, APDR was formed on 25 June 1972. On this day, it held its first formal meeting and elected its office bearers: Kapil Bhattacharya became president, Kalyani Bhattacharya was appointed working president; Amiya Bose and Dadu became vice presidents; Pramod Sengupta was made secretary; Sanjay Mitra and Dilip Chaudhury became assistant secretaries.[17]

After the death of Pramod Sengupta, during the Emergency, Sanjay Mitra took over as general secretary; Debasish Bhattacharya was the general secretary from 1977 to 1987; after that Sujato Bhadra took over and has been the general secretary ever since.[18]

Nature and Aims, and Activities

The First Declaration. APDR called its first press conference on 9 September 1972. Though none of the main papers bothered to send their representatives, it was covered by *Jana Shakti*, the official paper of the CPI(M), and a few weeklies, which had very small circulation -- like *Darpan, Bangladesh,* and *Satayug*. Even in these papers, the press conference was given very little space. This might also have something to do with Kapil Bhattacharya, whose relations with the press were not good.[19] However, it was covered extensively by *Frontier* --."always a friend of APDR."[20]

Soon thereafter a Declaration was adopted. It emphasized the right to freedom of speech and expression, and the right to political activity. It noted that "in the last two years, the unexpected spate of killings and torture, which was unexpected even in British times, is being done at the behest of the state regime, violating all norms of human rights and established legal codes." It was concerned with the most important issue then: "indiscriminate killing by the state machinery in and outside the jails." It demanded status of political prisoners for the Naxalites and pointed out that the jails were overcrowded due to arrests on false charges: "In

fact, even by official estimates, the number of prisoners in India have far exceeded the capacity of prisons." Finally, it asked for improvement in jail conditions, where "scores of prisoners have been tortured, and have turned mad."[21]

The Declaration took a legal and constitutional view in seeking support for prisoners. It did not overtly support the Naxalite movement for it said: "No individual can violate the legal framework in the course of achieving his own ideals."[22] This led to some debate within the organization and "some criticism from the Naxalites." There was also a demand for changes in the Declaration.[23]

Initial Years: Lack of Support. APDR was formed, and members started to "attend office regularly." However, the feeling was one of isolation. Response from within West Bengal was rather poor. Many Naxalite groups continued to be sceptical of APDR, partly because it did not work exactly as they sometimes might have wanted. They "would criticize some of the activities, though in a subdued manner."[24]

APDR approached all political parties for support except the ruling Congress party, which was "clearly identified as the aggressor." All parties verbally pledged their support, except the CPI (M). A few individuals in the CPI (M) were sympathetic, but they could not openly lend their support in contravention of party policy. Political parties would send their representatives to public meetings organized by APDR, but beyond this there was no organized support from them. By 1974 the JP (Jayaprakash Narayan) movement was launched. In principle APDR supported this movement. When JP came to Calcutta (around June 1974), he was given a fact-sheet of police repression in West Bengal.[25] However, as this movement did not spread to West Bengal, APDR could not align itself with it or make use of it.

In the early days, the organization got very little support from the media. None of the main papers showed any interest in or print its press releases. Only *Darpan, Frontier* and a few party papers took any notice of it. There was a tendency among the media to rely on and print the police version of events. It began to take note of APDR statements only after their own rights were infringed during the Emergency.[26] The response to the formation of APDR was slow from political

parties and the media, but support came from an unexpected source: the parents, especially the mothers, of political prisoners.

Mothers' Demonstration. The mothers of the political prisoners began to approach APDR for help, and in the process contributed immensely to the strength of the organization. In the first public meeting organized by APDR (held on 28 January 1973),[27] it was decided to go in a deputation to the chief minister of West Bengal, Sidhartha Shankar Ray, on 12 February 1973 and submit a memorandum on behalf of the mothers of political prisoners.

APDR was wary of taking out a demonstration as two months earlier (on 24 November 1972), all those who were in a procession to commemorate the October Revolution had been arrested *en masse*. The activists feared that if the same were to happen to APDR, the organization would collapse.

It was expected that 10-15 people would turn up for this event, but about 35-40 turned up. Most of them were the mothers of political prisoners. This small group then gathered in a nearby park (Subodh Mullick Park) and prepared a few placards. The proposed deputation had now turned into a small demonstration, though so small that in "the city of processions" it would hardly have been noticed but for the vast number of policemen, who outnumbered the demonstrators at least three times over, and made this small event into a big affair. A delegation met the chief minister and gave a copy of the memorandum titled, "An Appeal to the Chief Minister of West Bengal on Behalf of Mothers, Sisters, Wives and Other Relatives of Political Prisoners."[28] It was the policemen who made this demonstration a successful public event. And the media: newspapers, including *Anand Bazar Patrika,* carried this news and published photographs of the demonstration. Now news about APDR began to spread both through the media and by word of mouth.[29]

Flushed with the success of their first "agitational programme," a bigger demonstration was organized the following month. About 80 people participated in this event. Once again, policemen were present in large numbers. The media coverage was even better this time.[30]

In the summer of 1974, political prisoners went on a hunger strike (17 May to 14 June) in West Bengal on the basis of a 16-point demand. APDR held press conferences and took out demonstrations in support of their demands. It also organized a relay hunger strike (from 29 May to 14 June 1974) on behalf of "the mothers and sisters of political prisoners." As many opposition political parties sent their representatives to show solidarity with those on hunger strike, this became a state-wide issue, and put APDR firmly in a the public eye.[31]

Emergency and After. A month and a half after the Emergency was imposed, APDR was banned by the West Bengal government on 5 August 1975. Its general secretary, Sanjay Mitra, and four members of the executive committee were arrested. A book *Bharatiya Ganatanter Swarup* (The Real Face of Indian Democracy), which was being published by APDR was proscribed.[32] This book sought to catalogue jail-killings in West Bengal and was in the process of being printed. When APDR was banned, the production of the book did not stop. Eventually the press was raided by the police and the publisher arrested. The police could only confiscate the appendices to the book and not the main text, of which a hundred copies were brought out illegally during the Emergency.[33]

The Emergency ended on 21 March 1977, and APDR was unbanned in April 1977. The organization was revived in June 1977. It decided to broaden its area of activity and in March 1978, and changed its declaration of objectives to bring it in accordance with the Universal Declaration of Human Rights.[34] This essentially meant that it would henceforth not just concentrate on political prisoners but also focus on other areas.

It has since taken up cases relating to child labour, the eviction of slum-dwellers, and industrial pollution. In 1985, it undertook a study of the condition of contract workers working for the underground railway system in Calcutta; it came to the conclusion that their condition represented a "picture of blatant and ruthless exploitation."[35] More recently, it has taken up cases of police firing on industrial workers, for example, in Bhilai, where 15 workers were killed[36]; and of the communal riots that took place in Calcutta in 1993.[37]

However, most of its work continues to be police or prison related. In 1989 its writ petition regarding under-trial political prisoners in West Bengal jails was accepted by the Calcutta High Court. The judgement called the detention of 22 under-trial prisoners "illegal and in violation of their fundamental rights. Consequently they were set free by the state government in September 1991.[38] They had also organized a rally to highlight the condition of under-trial prisoners -- on 16 October 1990, to coincide with Nelson Mandela's visit to Calcutta.

One of the cases that has dragged on for years is of torture in police custody of Archana Guha. The first complaint was filed in 1977 in respect of an incident alleged to have taken place in 1974. The case has still not been decided.[39] APDR has set up a fund for this case to the tune of Rs. 80,000 to pay for travel costs of lawyers to and from Delhi -- as the case is with the Supreme Court there. In this case, Amnesty has helped, too. Archana Guha was extended medical aid by Amnesty's Danish Medical Group.

APDR is vigilant about custodial deaths.[40] One of its successful campaigns in recent years relates to the death of Kamal Thakur in police custody in 1980. Ten years later, the Calcutta High court rejected the claim of the police that Thakur had jumped off a roof in an attempt to escape from them. Three policemen were found guilty: two of them were sentenced to seven years, and one to three years rigorous imprisonment.[41]

In focussing on the excesses of the police, the organization has also pointed out the nexus between the police and the political leadership or other vested interests, such as the landlords. This is evident in its report on the repression of peasants in Palamu, south Bihar.[42] It also sent its own fact finding team to investigate the Arwal case[43] (see chapter 4, section 5).

Some of its other activities include organizing an All India Civil Liberties Convention in April 1983; a one-month cycle rally of thirty-five activists from Calcutta to Delhi to spread awareness about rights in October-November 1983; and celebrating the golden jubilee of the rights movement in India during November-December 1986, as dated from the establishment of the Indian Civil Liberties Union in 1936 (discussed in chapter 2.4).

Publication. APDR brings out a bi-monthly journal in Bengali called *Ganatantrik Adhikar* (Democratic Rights). There is also an occasional news bulletin called *APDR News* in English which has been published since the organization's inception. It also publishes a brochure each year at the time of its general body meeting.

Relations with Organizations Abroad. APDR was partly responsible for Amnesty's first visit to West Bengal in 1974 to inquire into detention conditions.[44] It helped them gather information, arranged interviews with political activists, and provided them with a list of alleged police killings.[45] Since then, its relations with Amnesty have been cordial. It regularly sends copies of all reports to Amnesty; but what is more important is that it also provides them any information that is requested.[46] For its 1994 annual conference, it invited human rights organizations from Nepal, Bhutan, Bangladesh and Sri Lanka. This had never been done before by any organization and might be the first step in getting together a working structure at the South Asia level.

Structure and Functioning

Office Bearers. APDR began with office bearers and activists but membership was not formal until after the Emergency was over and the organization revived in 1977. Then it became an organization with formal membership. Membership forms were printed. Members were even issued with identity cards in 1980. It now has a formal structure. Office bearers are elected in annual conferences, which are attended by delegates. The first organizational conference was held in January 1982; since then an annual conference is held every year.[47]

Each branch nominates two or three members to attend the annual conference. The central office in Calcutta nominates another 15-20 members, bringing the total number of delegates to about 100 or so. This body, as the representative of the general membership, elects the office bearers. Decisions are usually by consensus.[48] The conference elects the following office bearers -- a president, a working president (if needed); a maximum of 12 vice presidents; one general

secretary; four assistant general secretaries; one office secretary; and one treasurer.[49]

Functioning. APDR functions in a very informal way. It is the general secretary who has all the executive powers, but decisions are always taken in consultation with others. If a particularly grave or controversial matter comes up for discussion, the general secretary might call for a full secretariat meeting. The Secretariat consists of the general secretary, vice-presidents and the joint secretaries. Some other activists may also be invited to such a meeting. In extraordinary circumstances a general body meeting might be called. All formal members have a right to attend this meeting and vote on issues.[50]

The general secretary delegates work to the assistant secretaries and others. There is no division of work as such among the office bearers or activists. All work is voluntary. It is often a case of volunteering to take responsibility or at times to create a particular space in the activities. For example, if one is better at speaking, then he might be assigned work outside the office like going to other branches; some others might prefer to do office work, such as writing reports.[51]

In the pre-Emergency days, the activists would "attend office" from 6 to 8 p.m. three days a week. Now APDR office hours are from about 5.30 p.m. to about 8.00 p.m. each day. Office bearers and activists come here to report on any progress in their work and to listen to people who might bring their complaints.

Selection of Cases. APDR gets about two or three cases per week. There are no rules about deciding which ones to pursue or to prioritize. The cases are discussed in the office, usually in front of the people who come with the complaints. Each case is decided on its own merit, examining how serious it is, and how quickly action is required. The effort is to take up all the cases, not to turn anyone away. It thus takes up cases of all kinds, both of individuals and groups: anyone who approaches the organization. Sometimes they also get to hear of incidents through the press. However all cases are first verified: if a person has come to the office, he would be questioned; usually a member is deputed to make initial enquiries and submit a report before any action is taken. If the case is to be taken up, the first step is to contact the concerned party for redressal, say by meeting police officials;

at the same time, a press release may be issued. Since 1989-90, it has also become usual to consult a lawyer, as there are about seven or eight lawyers who regularly advise the organization without any fee.[52]

Branches. "Establish APDR in your respective localities" said the last line of APDR Declaration. Soon after this Declaration was published, some people in Nadia district and Krishnanagar (a locality in Calcutta) formed branches. Thus was formed a district branch in the former and an ordinary branch at the latter. APDR immediately recognized these branches. The only condition was that the branches must agree with the Declaration in principle. They were free to conduct their affairs.[53] After 1977, APDR took an active interest in establishing branches. The relationship between the central unit and branches became more formal. By 1982, branches were set up in Durgapur, Midnapore, Howrah, Hoogly, and Murshidabad.[54] Now there are 29 branches covering the entire state.

Branches can be set up at different levels. There are five district level branches such as in Howrah and Midnapore. There are others at town or even at the level of neighbourhoods in a city, such as the Behala branch in Calcutta. These smaller branches are usually under the district branches.[55] A branch can be formed with a minimum of ten primary members. If there are less than ten members available, a prepatory committee is formed, which then has the responsibility of gathering enough members to start a branch.[56]

Table 5.2

Branches and Members in APDR

Year	**Branches**	**Members**
1977	2-3	200
1982	5-6	400
1992	29	2000

Source: Debasish Bhattacharya, interview.

Membership. Until 1977 there were a handful of activists and a few "names." There was no formal membership nor was there an effort made by the activists to enrol any members. This aspect was not given much importance.[57] After 1977 the system of formal membership was introduced. Indian citizens of 18 years or more may become members if they agree with the constitution and objectives of the organization.[58] There is no bar on people from political parties or trade unions.[59] Members are, however, usually residents of West Bengal and Bengali speaking.

A Recent Controversy. Similar to the People's Union for Civil Liberties (PUCL), this organization is faced with the problem of dealing with an important member who has become associated with the Bharatiya Janata Party (BJP). Amal Dutta is a well-known and popular football coach. He was approached by the general secretary of APDR in 1990 and was made president of a local unit in Calcutta, and a vice president of the organization. Two years later (in November 1992), he joined the BJP, and was made its state committee member. APDR does not have the provision of expelling a member on the ground that he belongs to or holds an office in a political party. The problem has arisen because of the organization's perception that the BJP is a communal party. Currently there is a debate among the members about this issue.[60] Dutta does not see why his belonging to a political party should restrict or limit his activities; however, he told me that if he had to choose between the two, he would leave APDR.[61]

The only instance when a member was expelled was in 1982. In this case, the member was a police spy. This happened because APDR is an open organization and anyone can join. After he was discovered, he was asked for an explanation. This did not satisfy the executive committee; the matter was referred to the general body meeting, which took the unprecedented step of expelling him. [62]

Funds. In the initial years, APDR collected small donations. Dadu was an efficient and enthusiastic fund-raiser. He would go to people's houses to ask for donations. Money was spent on typing and cyclostyling, and bringing out leaflets and press statements. As far as conveyance was concerned, activists paid for it themselves.[63] Nowadays the main source of income is donation by the members themselves, especially the office bearers and some sympathizers and well-

wishers.[64] Members also pay an annual subscription fee of Rs. 15; students and unemployed pay Rs. 5 per year. Fifty per cent of the membership fee goes to the central office; and the other fifty per cent is retained by the respective branches.[65] Its annual expenditure is approximately Rs. 15, 000.[66]

2. Andhra Pradesh Civil Liberties Committee (APCLC)

While APDR was formed by people who had once been part of the Marxist-Leninist (ML) movement, APCLC was formed directly by ML party leaders. Here it was the ML parties which stressed the need for a rights organization in the context of increasing state violence. A series of consultations and negotiations between different factions of ML parties led to the establishment of APCLC and OPDR on the simple understanding that "it would be a part of the broad revolutionary movement."[67]

Andhra Pradesh had been a witness to social and political movements for many decades before the formation of APCLC. The state itself was created in 1956 out of Madras Presidency and Hyderabad after the "Andhra movement,"[68] and was the first Indian state formed on a linguistic basis. In the mid-1960s a small group of individuals, locally known as "Khammam intellectuals"[69] organized "Marxist Study forums . . . and campaigned against the mass detention of communist leaders in the wake of Sino-Indian war . . . particularly after the detention of CPI(M) leaders in December 1964." They eventually set up the Andhra Pradesh Civil Liberties Association (APCLA) in a convention held in Vijaywada on 25 June 1965.[70] This convention was attended by delegates from 15 districts. Sri Sri (Srirangam Srinivasarao) was elected its president. Subsequently, meetings were held at different places and district committees set up, but due to contradictions in the ML movement, it could really do no work. [71]

In the late 1960s there was a revival of revolutionary movement in Andhra Pradesh. This began with the transformation of the Srikakulam tribal struggle into an ML movement.[72] This movement helped in uniting scattered dissenting voices. Thus came into existence such organizations as Revolutionary Writers Association (RWA) in the field of literature; cultural groups such as Jana Natya

Mandali (JNM), and various students organizations like Democratic Students Organization (DSO), Progressive Democratic Students Organization (PDSO), and Radical Students Union (RSU) belonging to different ML groups.[73]

Though there was disagreement among different factions of ML parties including the question of "defending their cases in 'bourgeois courts,"'[74] by 1969-70 there was consensus on the need for legal defence. As this required the services of a large number of legal professionals, various Legal Aid Committees were established. Around the same time the need for a rights organization was felt.

One faction of the Naxalites, the Andhra Pradesh Revolutionary Communist Committee (APRCC) [this subsequently became the Unitary Centre for Communist Revolutionaries of India (Marxist-Leninist) or the UCCRI (ML)], led by T. Nagi Reddy had made an attempt to establish a state-level organization in 1969 but was unsuccessful as a large number of its leaders were arrested the same year. It was also difficult to form a state-level organization due to lack of consensus among factions of ML groups. The focus then shifted to forming smaller, local organizations. Different ML groups held meetings, and depending on where they could gather enough support, they formed local organizations at district levels.[75]

Finally a meeting of various district committees was held at Guntur on 14 October 1973 with the intention of establishing a united, state level organization. They decided to hold a formal convention on 23 December 1973 in Guntur. Different ML parties could not agree on office bearers except for the post of president to which Sri Sri (former president of APCLA) was unanimously elected. The delegates session failed to arrive at a consensus regarding office-bearers. The conflict was between APRCC and CPI (ML).[76]

APRCC was led by T. Nagi Reddy, but it had split into two groups by 1970. There was thus a T. Nagi Reddy group and a Chandra Pulla Reddy group. By the time of Guntur conference in 1973, the Chandra Pulla Reddy group was itself in a process of split and so its exact role is not known.[77] T. Nagi Reddy group proposed the name of T. Ramadasu Reddy (brother of T. Nagi Reddy), for the post of general secretary. Other ML parties, including CPI (ML), proposed the name of P.

Venkateswarlu, a Hyderabad-based active member of the Legal Aid Committee, for the same post. The conference could not come to a decision. This led to the formation of two organizations.

APCLC was formally established in January 1974 with Sri Sri as president and P. Venkateswarlu as general secretary. A meeting was held in Hyderabad to elect other office-bearers -- eight vice presidents, four secretaries, and one treasurer. Representatives came from various districts like Warrangal, Karimnagar, Guntur, Nalgonda and Hyderabad.[78] Initially there were about 150 members from all over the state.[79] OPDR was then formed in February 1975 by the T. Nagi Reddy group as a state-level organization though without any specific district units. It held its first conference in May-June 1975, by which time it had also prepared a draft manifesto and constitution.[80]

Nature, Aims and Activities

In the initial days, APCLC was very much a part of the ML movement. It was not independent or autonomous. It was "a front" of the ML parties to a certain extent. It was not unusual for ML party members to attend executive committee meetings and direct its activities. However, there were also a large number of people who were not directly members of any ML party, but were more like "sympathizers of the cause."[81]

APCLC began by focussing attention on repression of the Naxalites. It launched a sustained campaign against capital punishment awarded to two Naxalites: Bhumaiah and Kishta Gaud. They had been sentenced to capital punishment in January 1972, but due to APCLC campaign, their punishment date was postponed twice. (They were finally hanged during the Emergency).[82]

Emergency and After

Though APCLC was not officially banned during the Emergency, most of its leaders were arrested. Thus the organization could not function. However, a few

of the activist lawyers like K. G. Kannabiran (who were not arrested), kept some work going largely by filing writ petitions in the courts.[83]

After the Emergency, the president and general secretary withdrew from the organization for different reasons. Sri Sri, the president, had supported the Emergency for he perceived it as "a step towards left-wing dictatorship" even though his colleagues from APCLC and Revolutionary Writers Association were being arrested. He later realized that he was wrong in his assessment of the Emergency, and thus did not continue as president on moral grounds. The general secretary withdrew for personal reasons. [84]

After the departure of pre-Emergency leaders, an *ad hoc* committee was formed on 8 May 1977 in Hyderabad with P. Vitthal Rao as general secretary to facilitate the organization's participation in the Tarkunde Committee (see chapter 4.1), which had been set up by Jayaprakash Narayan on behalf of Citizens for Democracy to investigate 77 estimated "encounter deaths" in Andhra Pradesh during the Emergency.[85]

APCLC took part in the proceedings of the Tarkunde Committee by giving evidence and providing documents. On the basis of two reports published by this Committee (on 16 May and 9 June 1977), and the pressure exerted on the central government, the Andhra Pradesh state government was forced to appoint an official judicial inquiry headed by Justice Bhargava on 17 June 1977. APCLC participated in the proceedings of this Commission even while protesting that the police were trying to intimidate witnesses. It withdrew from the inquiry in April 1978, along with other organizations, when the government directed the proceedings to be held "in camera."[86]

These activities kept APCLC busy. Its first conference was not held until 1979 in Hyderabad. By this time, a draft constitution and manifesto had been prepared. Both of these were adopted in the second conference at Warrangal in 1980. The manifesto emphasized building up movements "for the protection and achievement of people's democratic rights," and supported "the right of the people to fight for food, shelter, clothing, land, liberty and equality."[87] It is different

from the manifestos of other organizations in one respect: it talks of building up a movement "for the total abolition of capital punishment."[88]

During the Warrangal conference in 1980, Kannabiran was elected president and B. Pradip was elected general secretary. However, B. Pradip had to leave in 1983 as the ML party he belonged to objected to his holding a position in APCLC. The same year, in August 1983, K. Balagopal was elected general secretary. From now on it was the team of Kannabiran and Balagopal that led the organization.

Till 1983 its primary focus was on encounter killings of alleged Naxalites. APCLC's interest in this has continued. It has pointed out that in the last 20 years from (1969-1989), nearly 660 encounter deaths have taken place in the state of Andhra Pradesh. It believes that those killed are not necessarily Naxalites: "The large majority of the 660 persons who have been killed in encounters are persons of poor peasant/tribal origin and it is these classes that have been suffering all the atrocities like torture, rape, destruction of house and crops, and implication in false cases."[89]

The organization had to pay a heavy price for what is seen as Naxalite related activities. At least four activists have been killed allegedly by the police. Gopirajana, a lawyer, was killed by BJP activists in collusion with the police in Karimnagar district in January 1985 as he had become unpopular with the local landlords. Dr Ramanadham, president of Warrangal unit and a vice president of APCLC was killed on 3 September 1985 in retaliation for the killing of a police officer by the Peoples War Group (PWG). Similarly, J. L Reddy, a member of the state executive committee, who was trying to revive the Karimnagar unit was killed on 7 November 1986; and N Prabhakar Reddy, a lawyer, and co-convenor of the Warrangal unit was killed on 7 December 1991.[90]

From 1983 onwards, under the leadership of Kannabiran and Balagopal APCLC began to take up more issues, or rather issues other than just repression on the Naxalites. The diversification of activities started from 1983-84, but more so after the killing of Dr. A. Ramanadham in 1985. It then became "necessary for the organization to widen its support structure, and send a message to different sections of society" that APCLC is an organization "not only for those who are

oppressed by the police due to their involvement with the ML movement" but for others as well. [91]

In 1983, it took up the issue of repression on rural poor. It pointed out the various modes of repression used by the police: these are illegal detention, torture, implication in false cases, raids on villages, setting up police camps in villages, extortion and suppression of the freedom of movement. Its report said, "Educated urbanites can never imagine the ruthlessness with which the police can treat the poor, particularly the rural poor."[92] In 1984 it took up the issue of custodial deaths. It also investigated the educational system in the state from the view of the rights of the children to education, and endorsed the rights of the parents to protest; it condemned the proliferation of private, high-fee charging schools.[93] In 1985, it had to react to the Karamchedu massacre where upper caste Kammas looted, raped and killed lower caste Madigas.[94] Since then it has carefully monitored reports of attacks on the lower castes. About the same time environmental concerns also began to be highlighted after the Bhopal Gas Tragedy (December 1984). For example, it has focussed on hardships faced by people due to pollution of drinking water by industrial units. In such cases, it calls for action by government pollution boards, provision of drinking water to the people, and demands that the industrial unit be shifted to another venue.[95] From 1989 onwards, it has started focussing on violence against women, particularly torture and dowry deaths (defined by organizations as "unnatural deaths of married women"). It highlighted the reluctance of the police in registering these cases and delaying investigation, which contribute to a low rate of conviction.[96] More recently, it has participated in an anti-liquor campaign in the state.[97] (In 1995, Andhra Pradesh was declared a "dry state," that is, sale or consumption of alcohol was prohibited).

Focus on Caste. Until very recently, issues were not seen from a caste perspective. Questions of caste were first raised within the organization after the Karamchedu incident, but more so after Kancha Ilaiah joined APCLC in 1991. (Ilaiah comes from a Backward Caste; he is a reader in political science at Osmania University, Hyderabad.) The internal debate continued till the 1993 state conference which decided that it was necessary to look at the rights of the lower castes differently. It declared that they have a "right to struggle" against their oppressors, the upper

caste elites. Ilaiah, a leading spokesman for this perspective, explained what this meant in these words:

> In the classical understanding of civil liberties when the masses are attacked, we are supposed to condemn it; when a landlord is attacked. we do not condemn it; when state attacks, we condemn; when state is attacked, we do not condemn. Therefore when lower caste attack the upper castes, we should not condemn them -- for they have a right to assert their democratic rights.[98]

The conference decided that it will not condemn attacks on upper caste. It has also approached the ML groups with the request not to kill lower caste "police informers" who either sell their labour for survival or are forced to do so.[99] APCLC manifesto has been amended accordingly to incorporate this view point.[100]

Publication. Swechcha, the monthly journal of APCLC, in Telugu, was started in 1984. It continues to be published and is among the most successful of rights journals in India. APCLC also publishes a *Monthly Report* in English of about ten pages. The contents are summaries of cases or issues taken up by the organization, which are usually translated from *Swechcha.* Every two years, during the state conference, the General Secretary's Report is published. The 1993 report was 45 pages in Telugu.[101] A collection of APCLC fact finding reports are to appear in two volumes. The process of publication is on.

Structure and Functioning

Office Bearers. A general body meeting is held every two years. This meeting is also called the state conference and is the highest policy-making body. It is in this conference that the state executive committee is elected. At present this body comprises of 49 members including 12 office bearers: one president, one general secretary, three vice-presidents, five joint secretaries, one treasurer and an editor of *Swechcha.*[102] The executive committee can co-opt more members, appoint fact finding committees and take disciplinary actions against erring members. However the constitution can only be amended by the state conference.[103] Each

district has its own executive committee with broadly the same powers and functions.

The elections are usually unanimous. Normally presidents and secretaries of district units become members of the state executive committee. The outgoing members make recommendations about office bearers. Till 1990, all elections were unanimous, except for a few suggestions at the level of joint secretaries and executive committee members. But the situation seems to be changing. In the past two or three years "more people are coming forward to take up responsibilities,"[104] and it is not always easy to find consensus candidates.

The problem is compounded as "identity" is becoming an important factor in the selection and election of office bearers and executive committee members. As M. Kodandarami Reddy, the editor of *Swechcha* said, "It is not only Marxism which is the ideology of protest movement but also liberalism or a certain amount of identitarianism -- they are also becoming very dominant. If they want to become office bearers, why should anyone stop them?"[105] "Identitarianism" in this context refers to sections of people putting forth certain claims based on caste, gender or other considerations. As people from various backgrounds are joining APCLC -- e.g, from the dalit movement or from women's and environmental groups -- they want representations for their groups. Reddy envisages that the election procedure might have to be changed; provisions may have to be made for direct elections, where anyone can propose names. This will lead to a more formal structure.[106]

Caste question has been raised regarding organizational structure, the criticism being that APCLC was "completely dominated by upper castes."[107] Although this is true as the main leaders were from the upper castes, many activists including those who support caste-based reservations are surprised by this internal debate as "this kind of liberal dilemma is not expected here -- in an organization that cannot be accused of any conscious caste bias. At no time has it taken a stand in support of upper castes, but is rather critical of them."[108]

Ilaiah's position is that in selection of office bearers and executive committee members, caste must be the basic criterion: people from lower castes must be

given important positions. Some restructuring has taken place in the 1993 conference with the "retirement" of Kannabiran and a vice president (both brahmins). Ilaiah is now a vice president and APCLC has a Muslim president in M. T. Khan.[109] In the 49 member executive committee, there are now 13 from Backward Castes, and two are women, but none from the Scheduled Castes.[110]

The same kind of demands are also being made at the district levels. The Nalgonda district conference, which I attended on 25 December 1993, failed to arrive at any consensus regarding the posts of vice president and joint secretary. The delegates quarrelled over representation based on caste and geographical considerations.[111]

According to G. Haragopal, people want to become office bearers, as in small towns such an office could add to their prestige and social standing. APCLC representatives are invariably invited to political meetings and social gatherings in their respective districts.[112]

Meetings. The district and state executive committees meet once in two or three months. Office bearers meet more often to take care of day to day activities. Until about three years ago, state office bearers would never meet formally. Now they meet every month to ensure the implementation of state executive committee decisions.[113] In some districts, meetings are more formal and organized. In Hyderabad district, for example, executive committee meetings are held once in three months; office bearers meet once a month, usually on the first Saturday of each month; and activists meet thrice a month, on the 1st, 10th and 20th of each month.[114]

Membership. Anyone from Andhra Pradesh can become a member. But in fact the "tendency is that people with left leanings tend to become members."[115] There are no formal requirements, but as the general secretary told me, "informally one has to be in the ML movement or at least a sympathizer of the movement. About 95 per cent of the members have an ML outlook, having been initiated in the students movement or in actual ML politics."[116] In the last few years, APCLC has taken a "conscious decision to enrol more members from diverse backgrounds, e.g., from the old city after the riots."[117]

Members of all political parties are free to join, but beside the ML parties. there are only a few persons from the Janata party who become members "as they have a good track record." So far no one from the Congress party or the BJP has applied for membership.[118] Most of the members are either journalists, lawyers, teachers or students. As there are no branches below the district level, it has very few members from the rural areas. As there is no membership list, it is difficult to say exactly how many members there are. A calculated guess is there are about 1000 members.[119] Membership lists are now being prepared by the district units. However, the intention is not to make it into a "mass organization" but keep it as an "activist organization."[120]

Branches. As has been pointed out, the organization was initially formed by delegates from different district committees. Once APCLC was formed, these district units became branches of the organization. Therefore, in a sense, district units existed even before APCLC. There were also units at the level of *mandal* and *taluka* (smaller administrative units in each district), but gradually the lower-level units were wound up. By 1984-85, there were only district-level branches. The notion of "activists' meeting" was also introduced around the same time. Activists at lower levels are free to arrange and hold meetings at *mandal* or *taluka* levels and co-ordinate their activities with a district committee.[121]

Out of a total of 23 districts in Andhra Pradesh, at present there are branches in 20 districts. There are no branches in Adilabad, Karimnagar and Medak. At one time these districts did have units but all the members "were forced to resign by the police. Whenever the police think APCLC will not allow them to continue their policy of repression, they force the members to resign or try to kill the APCLC members."[122] For example, in Srikakulam, "the entire district unit was forced to resign by police at gun point" in 1990-91. Now the unit is in the process of being revived, but no "police work" is undertaken here. Similarly in some other units like Warrangal, Nizamabad and Mehboobnagar, district units do not take up issues related with the police. They focus on "safe" issues like environment.[123]

Funds. There is no membership fee. For the day-to-day activities, "each activist is expected to pay Rs. 50-60 per month."[124] This actually depends how well a particular branch is organized. In some branches members donate regularly; in

other branches, donation is occasional. The simple rule is that "members and activists pay whatever they can afford."[125] Money is also raised through donations from sympathizers, especially when specific cases are undertaken. When money is raised for a specific issue, accounts are kept by an office bearer. If there is a surplus (which is rare) it is kept for day-to-day activities; if there is a shortage (which is more common), activists have to make further donations. At times larger donations can be accepted. For example, recently someone in the US left Rs. 20,000 to APCLC in his will.[126]

As no accounts are kept it is not possible to say what is the actual expenditure. Balagopal's personal bank account doubles as the organization's account. Kannabiran's guess is that when there is no state conference, the annual expenditure is in the range of about Rs. 5,000-6,000.[127] Holding state conferences can be rather expensive. For this event, each district unit is asked to raise about Rs. 5,000, which according to Balagopal is not difficult as "doctors and lawyers willingly contribute small amounts of Rs. 50 each." The 1991 conference cost Rs. 34,000. The 1993 conference cost about Rs. 90,000 out of which Rs. 35,000 was spent on publication.[128]

3. Committee for the Protection of Democratic Rights (CPDR)

Background and Formation

After the end of the Emergency, organizations which had either been banned or were unable to function revived themselves. There were also a large number of organizations which were established "after the Emergency in the first flush of democratic enthusiasm."[129] There were Citizen's Committee for Civil Liberties and Democratic Rights (CCCLDR) in Goa, People's Rights Committee (PRC) in Karnataka, Organizing Committee for Democratic Rights (OCDR) in Tamil Nadu, and Lokshahi Hakk Sanghatana (LHS) in Bombay.[130]

CPDR was established in April 1977 and may be seen to represent the organizations which were formed at this time. It is a small organization with very few members. Most of its founder-members have either become inactive or have

left the organization. Some others have left Bombay, and are not associated with it any more.[131]

Before the Emergency, there was a left-wing organization in Bombay called Association for the Defence of Democratic Rights (ADDR). Some of the founders of CPDR were earlier members of this organization.[132] Some others younger members were associated with "Marxist study groups" in pre-Emergency days.[133]

Though CPDR was established directly as a result of the experiences of the Emergency, most of its founder-members had left-wing leanings and belonged to different groups within the left. It tried, however, to attract people from all backgrounds and did succeed to a certain extent as some people from the JP movement also joined. For this reason it did not just remain a "Marxist front." However, "it could not attract too many non-political people who were not interested in any political party."[134]

Its members are primarily from Bombay. In its scope, too, it is largely confined to immediate issues in the city or in the state of Maharashtra at the most. On rare occasions, it participates in joint fact-finding teams with other organizations. The issue of the scope of activities has been a topic of debate. Some felt that focussing attention on Bombay would attract more participation and this viewpoint is now generally accepted within the organization.[135]

On focussing attention on Naxalites, each person's point of view largely depended "on which ideological group you belonged to," but it was resolved that "the people of Bombay are not interested in this."[136] As a matter of policy CPDR is not concerned with any particular groups of people like scheduled castes or scheduled tribes. However, in practice, the issues taken up "invariably relate to the rights of these very sections of people as these sections are the ones who are vulnerable, whose rights are violated or often not even acknowledged."[137]

It sees its work as complementary to that of other groups, especially grassroots organizations. Though it would like the society to be "more democratized," it does not have "a complete programme to change the society and bring about a democratic dispension."[138]

Its activities are not directed towards any particular kind of abuse. It has focussed on police torture, encounter deaths, and on the rights of workers, women and the minorities.[139] However, by the mid-1980s, due to insufficient members, its main activity was the publication of a quarterly journal. The general secretary's report for 1984-85 said, "Our activities have become mere rituals, as means of registering our protest only for record."[140] More recently, it has worked with other organizations and focussed on army atrocities in Kashmir and communal riots in Bombay.[141]

One of its early initiatives is of particular significance: it tried to set up a national coordination committee of rights organizations.

National Coordination Committee. In 1980 CPDR took the initiative to form a Western Zonal Committee of human rights organizations. A conference was organized on 19-21 October 1980 to enhance coordination between organizations which had recently been established in Goa, Bombay, Gujarat and Karnataka. However, as organizations in other parts of the country heard about this conference and showed an interest, they were also invited. In all 12 organizations participated, including organizations from Delhi, Andhra Pradesh, Punjab, Tamil Nadu, West Bengal and Assam. Thus an *ad hoc* National Coordination Committee of 12 organizations was established, with four joint-convenors: Gobinda Mukhoty (PUDR), K. G. Kannabiran (APCLC), Jagmohan Singh (Association for Democratic Rights, Punjab), and Kobad Ghandy (CPDR). Other organizations represented in the Committee were: Association for Democratic Rights, West Bengal; Organizing Committee for Democratic Rights, Tamil Nadu; People's Democratic Rights Association, Tamil Nadu; People's Union for Civil and Democratic Rights, Raipur; Lok Adhikar Sangh, Ahmedabad; Citizen's Committee for Civil Liberties and Democratic Rights, Goa; People's Rights Committee, Karnataka; and People's Committee for Civil Liberties and Democratic Rights, Assam.[142]

This Committee set itself the following aims: a) to contact other organizations for exchange of views and enter into a dialogue with all other rights organizations; b) to eventually hold a bigger conference with the help of others involved in such work; and c) to bring out a bulletin carrying reports from various organizations. The main aim of the Conference was to plan for closer cooperation between rights organizations as a "first step towards the ultimate aim of building a national structure."[143]

Setting up of the Committee was "followed by similar attempts by groups which did not join this committee due to differences in perspective."[144] More specifically, Lokshahi Hakk Sanghatana (LHS) and OPDR were trying to set up a federation at the same time. As already described (in chapter 4, section 6), this finally resulted in the establishment of the All India Federation of Organizations for Democratic Rights (AIFOFDR) in 1982. Some organizations like AFDR which were part of this Committee "thought itself to be closer politically to another federation," namely AIFOFDR. Thus AFDR, for a while, was in both the Committee and in AIFOFDR. It finally left the Committee. Actions such as this were a blow to the new Committee. After this event, the Committee did hold two or three meetings at the national level, but the formation of AIFOFDR caused them to abandon the idea of establishing a formal structure. As the Committee did not meet formally, it soon became defunct.[145]

Relations With Other Organizations. Its relations with most organizations are "cordial and fraternal." With PUDR its enjoys a "special relationship" as both these organizations were involved with the setting up of the Coordination Committee and "over the years, personal relationships have built up."[146]

However, it has always had problems with Lokshahi Hakk Sanghatana (LHS). Main differences relate to ideology and questions of strategy. LHS is too left-wing for this organization. Madhav Sathe, a former secretary, remembers an instance in the early 1980s when he went to attend an annual conference of APDR in Punjab as a representative of CPDR. While the representatives of LHS was greeted with *lal salaam* (red salute, a greeting for one communist to another), Sathe was just given "fraternal greetings."[147]

Joint programmes with LHS have always run into problems as leaflets and slogans had to be vetted by both the organizations; CPDR would want to focus on the middle classes and take out demonstrations in central Bombay, while LHS would want to focus on the working classes and would prefer to demonstrate in the outskirts of Bombay.[148]

Publication. CPDR started publishing *Adhikar Raksha,* a quarterly journal in 1977. It was published in English, but it also carried a few articles in Hindi. Beside regular reports on issues taken up by the organization, it also carried book reviews, reviews of plays and cinema, and occasionally, general articles on, say, Indian administration. It usually devoted one page to "CPDR News," where it listed a summary of all the activities undertaken in the previous three months. The journal ceased to be published in 1989 as three of the active members associated with the production left the organization. At present efforts are on to revive the journal.[149]

Structure and Functioning

Office Bearers. It has an executive committee of seven members in addition to three office bearers: a president, secretary and treasurer. Initially members of political parties could not become office bearers or members of the executive committee. Some members raised a demand for change of this provision. In 1981 the constitution was amended to allow members of political parties to become office bearers or members of the executive committee.[150]

Members. In 1980-81, there were about 50-60 formal members who used to attend its public meetings and general body meetings. However, there were only about 15 or so active members.[151] This number has gradually reduced over the years as members have left or become inactive. Except for two or three founder-members, the rest are all new members. By 1989 there were only about seven or eight active members. Now its weekly meetings are attended by not more than five or six members. At times, only two or three persons turn up, and meetings have to be cancelled. Members subscribe to different ideologies, but have been able to work together successfully.[152]

Some of the prominent persons associated with CPDR such as Ashgar Ali Engineer[153] are neither required nor expected to attend any meetings. The secretary consults them on specific issues or whenever such need arises. Their names are used if a statement has to be issued.[154]

There is a tendency for increase in membership in response to immediate issues. For example, this happened after the Bombay riots in 1992. CPDR meetings would be attended by 25-35 people. However, the "reactive members" soon leave the organization: "on issues it is easy to attract members but they do not become committed members."[155] This also has to do with the way the organization functions. As Sakrikar, a former secretary, explained:[156]

> Since five or six of us had been in the organization for many years, we had grown used to each other's way of thinking. Maybe that put off a number of newcomers. Maybe we were not very receptive to them. We all had a kind of political background. Newcomers who did not, felt left out.

Unlike PUDR in Delhi which is dominated by academics, CPDR has more journalists and lawyers. In fact there have been just two academics who at some point were members.[157]

Meetings. Most decisions are taken at its weekly activists' meetings. These meetings were held in the grounds of Bombay University, as it is in central Bombay and thus a convenient place to meet. In 1988, M. J. Pandey joined CPDR and arranged for them to meet at the offices of Bombay Union of Journalists, of which he is a secretary.[158]

In the initial days, there would be meetings to discuss organizational and ideological matters. These were written down as reports or perspective papers.[159] Now with so few members, "all formalities have been done away with as it is redundant. Even reports are not written."[160]

Branches. CPDR has no branches. However, when two former secretaries of the organization left Bombay and set up an organization in Nagpur in May 1981, they decided to call the new organization, Committee for the Protection of Democratic Rights (CPDR). An assumption was made that the organization in Nagpur could

be treated as a branch of the original CPDR in Bombay. This development was discussed by the members in Bombay, who came to the conclusion that it would be best to have separate organizations in order to do away with any possibility of a conflict between the two. It was also felt that the Nagpur organization would have to focus attention on the Naxalite movement, which was active in that area -- an issue they were not particularly interested in. Additionally, it was far away from Bombay and there would be inevitable delays in communication and coordination.[161] Thus CPDR, Nagpur has stayed as a separate and autonomous organization -- though it emerged form the experiences of CPDR, Bombay.

Funds. The two main sources of funds are contribution by members and donation by sympathizers, most of whom are journalists or lawyers. A small amount of money also comes through sale of literature. In March 1993, CPDR had about Rs. 3,000-5,000 in its bank account. Expenditure depends on kinds of issues taken up. Very often, collection of funds also depends on the programmes taken up. No funds can, however, be accepted from foreign sources, governments or private companies.[162]

4. Naga People's Movement for Human Rights (NPMHR)

The history of Nagaland (which became a state of India on 1 December 1963),[163] has been dominated by violence, from both the Nagas who seek independence, and the Indian government who see this as a problem of law and order. The Naga People's Movement for Human Rights (NPMHR) was formed in response to the violations of human rights in the area, which has been under a virtual army rule for the past 40 years. To understand the nature of problems in Nagaland it is necessary to look at the historical background of this state.

Background

The Nagas are a tribal people who are mainly found in Nagaland. They can also be found in Assam, Manipur and Arunachal Pradesh and across the border in Burma. They are in a minority in all these places except Nagaland.[164] They consider themselves a different people from Indians, and trace their roots to people in

South China and South-east Asia. In the 1830s the British managed to gain control over the Nagas. Since then, a large section of the Naga population have wanted to be independent. The Naga Club was formed in 1910 as "an expression of ethnic identity and definition of political demands in modern terms."[165]

Even when the Indian national movement was gaining strength and the Indian National Congress wanted complete independence for India, the Nagas had demanded to be separate from India. This led to obvious conflict, for "while Indian nationalism was regarded as perfectly worthy and part of the worldwide awakening of the colonial peoples, Naga nationalism was branded as 'insurgency.'"[166]

The Nagas placed before the Simon Commission a demand in 1929 to be left alone to determine their own future.[167] Before the Indian independence, many of the Indian leaders including Nehru had spoken in support of the Nagas' right to self-determination. Nehru had said in 1944:

> It may be desirable to fix a period of say ten years after the establishment of free Indian state, at the end of which the right to secede may be exercised through proper constitutional process and in accordance with the clearly expressed will of the inhabitants of the area concerned.[168]

Gandhi, too, assured the Naga people that they would not be forced to join the Indian Union. He told some Naga leaders on 19 July 1947:

> Nagas have every right to be independent. We did not want to live under the dominion of the British and they are now leaving us . . . I believe in the brotherhood of man, but I do not believe in force or forced unions. If you do not wish to join the union of India nobody will force you to do that.[169]

In November 1949, the then governor general of India, C. Rajagopalachari assured the Naga National Council (NNC) that they had the liberty to do as they wished.[170]

The Naga National Council, which was formed in 1946 led political discussions with the Congress.[171] This resulted in the Nine Point Agreement or the Hydari Agreement, which specified that for the next ten years the region would have the

status of a protected area after which time the Council would decide if the Naga people wanted to remain within the Indian Union or make a new agreement regarding the future. This agreement was interpreted differently by the Indian government which believed that the next ten years would gradually integrate the area more fully into the Union, and the Council which believed that this was a period for them to decide their future. These differing points of views led to tensions. The Council declared complete independence of the Naga people on 14 August 1947. This led to the build up of Indian administrative machinery in Nagaland and in July 1948 the arrest of several Council leaders, including A. Z. Phizo. In May 1951, the Council-sponsored plebiscite voted for an independent Nagaland -- but this was not recognized by the Indian government and in 1952 the Council launched a civil disobedience movement, including a boycott of the first parliamentary elections in 1952. Thus the 1950s saw the escalation of tension in the area. Violence erupted and Naga leaders went underground. The Indian army was sent in. The situation became worse after the unsuccessful visit of Nehru in 1953, after which special laws relating to the conduct of army were passed, giving them immense powers in the area.[172]

A ceasefire was declared in 1964 and a peace mission consisting of Jayaprakash Narayan, Michael Scott and B. P. Chalika visited the area and submitted a report which confirmed the atrocities committed.[173] The violation of human rights in the area is a result of this situation. This has been made worse by the many special armed forces laws which operate in this area, bypassing the civil administration.[174]

The Beginning

During the period of national Emergency, there came about a general awareness of rights in the country. After the Emergency, there were open, public discussions about it. It was in this atmosphere that the Naga students in Delhi began to project their views and opinions. Open discussions were possible due to the changing political culture and the growing awareness and concern about rights issues.

The idea for an organization emerged in Jawaharlal Nehru University in New Delhi in the course of discussions between Naga students such as Luingam

Luithui and others such as Nandita Haksar on the question of Naga nationalism. This led to meetings, discussions and pamphlets in Jawaharlal Nehru University and Delhi University campuses -- and eventually the formation of the organization in 1977, though without a formal structure.[175]

In the establishment of NPMHR, the Naga Students Union in Delhi played a prominent role. It sent representatives to attend conferences at all levels, including one organized by the Asian Forum for Human Rights in Hong Kong in early 1978. This convinced the students that there was a need for a separate and permanent organization dedicated solely to human rights concerns. On 9 September 1978 the Naga Students Union appointed a steering committee of five members to work out formal details of the organization. A draft declaration was prepared and on 26 November 1978 the general body meeting of the Naga Students Union adopted the declaration. Thus NPMHR was formally established as an autonomous organization.[176]

There were initial problems including overcoming "deep-rooted prejudices based on stereo-typed images" of the Nagas. They also had to face another hurdle, putting up with discomfort caused by intelligence agents who followed, interrogated and searched the hostel rooms of the students involved with the organization.[177] It is quite likely that the reason for this could be an apprehension that the establishment of such an organization might lead to a communist movement in Nagaland.[178]

But there was also help from various quarters, without which the new organization would have found it very difficult to survive. It received a great deal of help from the PUDR in filing petitions in the Supreme Court, and from individual lawyers such as K. K. Venugopal and Kapil Sibal who took up their cases without any charge.[179]

Nature, Aims and Activities

The major demands of NPMHR are: a) revocation of special armed forces legislations, b) withdrawal of armed forces from the villages and other civilian areas, and c) independent investigations into atrocities committed in the area.[180]

Its main activity is to highlight any atrocities committed by the army in Nagaland or on Nagas elsewhere.[181] However, it also takes up issues which are seen to be social problems, e.g., the issue of drug abuse. NPMHR has also become a sort of cultural organization, and takes part in the organization of cultural activities for the "Naga Week" which is organized by the Naga Club every year in Kohima.[182]

Though it does not engage itself directly in any educative efforts,[183] it did publish a booklet *Know Your Rights* (1993) to educate people about some of the special legal provisions relating to the area, and more generally to spread awareness about the rights.

It holds public rallies, processions and files petitions in the courts. It has held public meetings in Delhi, Nagaland and Manipur. It has challenged the constitutional validity of the Armed Forces Special Powers Act 1972 in the Supreme Court.[184] In 1982, it won its first case in the Supreme Court against the army for torturing and killing civilians in Nagaland.[185]

In a situation where the Indian army has created a kind of "fear psychosis among the Naga population," and many Nagas hesitate to join or associate with NPMHR,[186] the organization has engaged itself in the foremost task of trying to free the Nagas of this fear which has developed over the years. Gradually, the Nagas have begun to speak out about torture or any other form of abuse by the army. It has also raised its concerns at various world fora.[187]

NPMHR condemns violence in all forms. It believes that the problem confronting the Naga people is a political one and therefore it should be dealt with through political process and any attempt at seeking military solution will only further aggravate the situation.[188] It does not agree with violent methods and does not justify them.[189]

Relations with Nagaland Government. It has extremely good relations with the state government and the civil administration (which is most unusual for a human rights group). For example, it has direct access to the chief minister of Nagaland. The relation is so cordial that the NPMHR even uses his fax machine. Recently,

the chief minister personally sanctioned a piece of land for the organization to put up a monument.[190]

It has no conflict with the civil administration. The reason for this is that the civil administration in this state is itself without much power; especially in relation to the army, it finds itself in a subordinate position. The chief minister was the chief guest at a conference organized by the NPMHR in Kohima on 23 November 1990. He reminded the conference that "the Naga people continued to be trampled under the boots of the mighty military machine of India, and our political rights crushed by greed for power."[191] Though the state government gives NPMHR all the facilities it can, it is virtually powerless in the area of human rights.[192]

Structure and Functioning

Structure. As the organization does not have a constitution, its structure is rather loose. It has a convenor, who is responsible for all the work. Neingulo Krome has been the convenor of the Kohima unit since 1987. There is an executive committee of 15 people. It usually meets two times a month and decisions are taken by consensus.[193] There is no specified criterion for their selection, except that if one is active and does some work, he would be asked to become a member of the executive committee.[194]

Membership. There are no registered members. Membership is open to any Naga. However, the active members are usually "a handful of well informed Naga students," about 20-30 of them at any given time.[195] Initially it was suggested there would be registered members and the fee was set at a nominal Rs. 1 per year. This did not work out in practice: people neither registered nor paid the fees, so this was abandoned. Any Naga is now welcome to work voluntarily for the organization.[196] There is no restriction on any of its members belonging to any political party; however if they enter electoral politics, that is, stand for elections, then they must disassociate themselves from the organization.[197] It does not have any paid staff; nor does it have an office. Efforts are now being made to acquire an office space. For the time being, it often works with the Naga Students Federation and uses its offices.[198]

Branches. Though NPMHR was first established in Delhi, its main activities gradually shifted to Nagaland. Now the unit in Kohima is considered the main unit. There is a unit in Imphal, Manipur -- which has its own convenor and executive members. It functions as an autonomous and independent organization.[199] Apparently, there is still a unit in Delhi as well.[200] However, as the Naga Students Union is rather well organized in Delhi, it usually takes up and highlights NPMHR reports on its own.[201]

Funds. As there is no formal membership. there is no membership fee. The organization is run on donations from the members of the executive committee and some other active members. For specific activities such as holding conferences, it initiates fund raising programmes and collects donations from professionals and businessmen in the area, from legislators and ministers who are sympathetic to them, from organizations such as the Naga Students Federation, and funds (grant-in-aid) from the state government (especially from the Department of Rural Development). It, however, does not accept any funds from outside the country.[202] NPMHR is unique among the human rights organizations in India as it is the only organization that accepts government funding. However, as the money comes from the state government, it is seen to be "clean money" for the violator of rights in Nagaland is specifically the army, which is controlled by the central government.

Conclusion

APDR and APCLC were established as a result of repression on the Naxalites. The crucial difference between the two is that while the former was established by former ML activists, the latter was established directly by the ML leadership. However, both the organizations engaged in similar activities, which were to highlight repression on the alleged Naxalites and other political prisoners. This was their only activity until the Emergency was imposed. After the period of Emergency, both the organizations reconstituted themselves. They also diversified and expanded their agendas, both to secure for themselves a wider constituency and greater legitimacy. In spite of government hostility, their membership has

grown over the years; and there has been an increase in the number of branches as well.

CPDR can be seen as an example of organizations which sprang up immediately after the period of Emergency. It was very active in its initial period, but then due to insufficient members has only been able to take up a very limited number of activities. This organization only survives due to a dedicated leadership.

The NPMHR is a unique organization in the sense that its membership is based on ethnic identity. Its activities relate to atrocities committed by the army and paramilitary forces on the Nagas. The organization has, over the years, also become interested in social issues concerning the Naga population. It has good relations with the Nagaland state government, which is apparently powerless to stop army actions in the region. Its actions are thus directed only towards the central government.

In the next chapter, I am going to look at the response of the Indian government to criticism from organizations and other quarters; I will also discuss the attitude of a state government, which is not as friendly towards rights organizations as the government in Nagaland.

NOTES

1. For a full and detailed discussion of the Naxalite movement see Sumanta Banerjee, *India's Simmering Revolution: The Naxalite Uprising,* London: Zed Books, 1980.

2. This can literally be translated as Workers and Peasants Revolutionary Front.

3. MKSS and MCC were banned in 1986, and PWG was banned in 1991 by the state governments of Bihar and Andhra Pradesh respectively.

4. Nilanjan Dutta, "With Little Victories and Big Defeats," in APDR, *Civil Rights: Past and Present,* Calcutta: Sujato Bhadra for APDR, 1986, pp. 41-49

5. Kakaraia Sitharamam, "Civil Rights Movement in India," PhD Thesis, Centre for Social Studies, South Gujarat University, Surat, 1993, p. 53.

6. Ibid.

7. Subhash Ganguly, Interview with author, Calcutta, 28 November 1993.

8. Subhash Ganguly, "Early days of APDR:1972-77," in APDR, *Two Decades of APDR and Human Rights,* Calcutta: Sujato Bhadra for APDR, 1991, pp. 89-112.

9. Ganguly, interview.

10. Ibid.

11. Ibid.

12. Bhakti Bhushan Mandal was a member of the Forward Block and later became a minister in West Bengal. After 1977, he lost touch with APDR; Kanha Chatterjee, from Shantipur in Nadia district, belonged to a left party; Amiya Bose was a leading heart surgeon, and had the distinction of being the only rich person in APDR; Pramod Sengupta, was a historian and a former member of CPI; and was also associated with the Naxalite movement. As a freedom-fighter, he was in the Indian National Army (INA) with Subhash Chandra Bose; Biren Banerjee was an old freedom fighter, and the publisher of the APDR book which was proscribed during the Emergency. Ibid.

13. Kapil Bhattacharya was a civil engineer by profession and wrote *The Rivers of West Bengal* in Bengali in 1950s, where he pointed out environmental problems related to big dams. Sujato Bhadra, Interview with author, Calcutta, 28 November 1993. Tape recording.

14. The office was one big room in the house, with a few chairs, a rack to keep files, and a big black trunk donated by Kalyani Bhattacharya to keep papers. Bharti was in-charge of the office and kept all records including the accounts. Using one's place as an office of APDR was a serious thing those days and Kapil Bhattacharya had to pay a price for it. During the Emergency, when he was more than 70 years of age, he was called to the Special Branch Office and interrogated. Ganguly, interview.

15. Ibid.

16. Three organizations seem to have played a significant role in the preparation of the charter of demands and in the campaign: The Legal Aid Committee, Democratic Lawyers Association and Prisoners' Release Council. These organizations also worked closely with APDR. See Nilanjan Dutta, op. cit.

17. Ganguly, interview.

18. Ibid.

19. Kapil Bhattacharya had earlier opposed the construction of Farraka Barrage, arguing that this would deprive Bangladesh of their due share of water, beside being harmful for the Calcutta. This attitude had not gone down well with the media, and he had been branded a Pakistani spy by a leading and widely circulated vernacular, *Anand Bazar Patrika.* Ibid.

20. It is also worth noting that *Frontier* was perhaps "the only voice of protest in West Bengal at that time." Its editor was Samar Sen, a well-known modern Bengali poet. Ibid.

21. APDR, "First Declaration," in *Two Decades of APDR and Human Rights,* Calcutta: Sujato Bhadra for APDR, 1991, pp. 137-141. In Bengali.

22. Ibid.

23. Ganguly, interview.

24. Ibid.

25. Ibid.

26. Ibid.

27. This public meeting was held in College Square Students Hall.It was not a very big meeting but was attended by some well known individuals, e.g., Vivekananda Mukherjee, editor of one of the most widely circulated Bengali daily of that time, *Jugantar.* It was also attended by a few representatives of political parties. Ibid.

28. APDR, "Petition to the Chief Minister of West Bengal from the Mothers, Sisters, Wives and Other Relatives of Political Prisoners," Dated 12 February 1973. In *Two Decades of APDR and Human Rights,* Calcutta: Sujato Bhadra for APDR, pp. 142-44. In Bengali.

29. Ganguly, interview.

30. Ibid.

31. Ibid.

32. APDR, "About APDR," in *Civil Rights: Past and Present,* Calcutta: Sujato Bhadra for APDR, 1986, p. 30; Nilanjan Dutta, op. cit., p. 46.

33. Ganguly, interview.

34. APDR, "About APDR," op. cit; Sitharamam, op. cit., p. 54.

35. APDR, *Calcutta's Metro Workers,* Calcutta: APDR, April 1985.

36. APDR, "Press Release," Calcutta: APDR, 2 July 1992; APDR and PUDR, *Report on Bhilai Firing,* Calcutta: APDR and Delhi: PUDR, 1 July 1992.

37. APDR, *Communal Riots in Calcutta and Elsewhere After the Demolition of Babri Masjid,"* Calcutta: APDR, 6 March 1993. Booklet. In Bengali.

38. See APDR, *All Political Prisoners Should Be Released Unconditionally in West Bengal,* Calcutta: APDR, 25 March 1990. In Bengali; APDR, *Left Front*

Government and Political Prisoners: Unfettering the Fettered, Calcutta: Biren Roy for APDR, 20 December 1991. Booklet.

39. See for details. APDR, *When to Remain Silent is a Crime,* Calcutta: APDR, 1987; see also APDR, He Shattered the Night," in *Adhikar Raksha,* vol. 11, no. 1, January-March 1988, pp. 12-17.

40. See for example, APDR, *Custodial Deaths in West Bengal: 1977-1989,* Calcutta: APDR, 1989.

41. APDR, "Custodial Death in West Bengal: Three Policemen Convicted," Press Release, Calcutta: APDR, 16 August 1990; "Kamal Thakur Case: Policemen get R.I. for Death in Custody," *Calcutta Observer,* Calcutta, 10-16 June, p. 5.

42. APDR, *A Report Terror and Repression in Palamu,* Calcutta: APDR, 20 March 1991; see also APDR, *Police-Party Combined Attacks on Democratic Movements in West Bengal,* Calcutta: APDR, 1986.; APDR, *Police Firing During Left Front's Regime,* Calcutta: APDR, April 1991.

43. APDR, *A Fact Finding Report on Arwal Massacre,* Calcutta: APDR, 1986.

44. Amnesty International. 1974. *Short Report on Detention Conditions in West Bengal Jails.* London: AI. 1974.

45. Ganguly, interview.

46. Gautam Sen, Interview with author, Calcutta, 27 November 1993. Tape recording.

47. Debasish Bhattacharya, Interview with author, Calcutta, 2 December 1993.

48. Gautam Sen, interview.

49. APDR, "The Constitution of APDR." In Bengali.

50. Sen, interview.

51. Ibid.

52. Sen, interview.

53. Ganguly, interview.

54. Sitharamam, op. cit., p. 53.

55. Bhattacharya, interview.

56. APDR, "Constitution."

57. Ganguly, interview.

58. APDR, "Constitution."

59. Sen, interview.

60. Bhadra, interview.

61. Amal Dutta, Interview with author, Calcutta, 1 December 1993.

62. Sen, interview; Bhadra, interview; Bhattacharya, interview.

63. Ganguly, interview.

64. Sen, interview.

65. APDR, "Constitution." op. cit.

66. APDR, "Statement of Accounts for the Year 1990-91," Calcutta: APDR, 1991.

67. M. Kodandarami Reddy, Interview with author, Hyderabad, 20 December 1993. Tape recording.

68. Sitharamam, op. cit., p. 65-67.

69. Khammam is a district-town in southern Telangana, and has been a stronghold of the communist since the 1940s.

70. Sitharamam, op. cit., p. 83.

71. Ibid., p. 83-84.

72. This was a movement by the girijans to better their social and economic conditions. After the landlords shot two girijans, and were alter acquitted by the courts, the girijans resorted to armed resistance. Since the CPI(M)'s plans did not satisfy the leadership, they joined the All India Coordination Committee of Communist Revolutionaries (AICCCR), which became CPI (ML) in 1968. Ibid., pp. 75-76.

73. For evidence of closer relations between these organizations and Naxalites, see Kranti Prachuranalu publisher, *Chenna Reddy's Government Unleashes Reign of Terror as People in their Millions Rally Behind People's War,* Hyderabad, October 1990, especially pp. 6-9.

74. Sitharamam, op. cit., p. 87.

75. Ibid., pp. 87-88.

76. Ibid., pp. 87, 54.

77. The Chandra Pulla Reddy group split into two groups; the Chandra Pulla Reddy group and the Payla Vasudeva Rao group. S. V. Srinivas, Interview with author, Hyderabad, 24 December 1993.

78. Sitharamam, op. cit., p. 91.

79. K. G. Kannabiran, Interview with author, Hyderabad, 19 December 1993. Tape recording.

80. Sitharamam, op. cit., p. 92.

81. Kancha Ilaiah, Interview with author, Hyderabad, 21 and 22 December 1993. Tape recording.

82. Sitharamam, op. cit., p. 91-92.

83. Kannabiran, interview.

84. Sitharamam, op. cit., p. 95.

85. Ibid.

86. Ibid., p. 93-94.

87. APCLC, "APCPC Manifesto: Adopted on 4 May 1980 at the Second Annual Conference, Warrangal." Hyderabad: APCLC. See Articles 1 and 3.

88. Ibid., Article 6.

89. APCLC, *State of Civil Liberties: An Open Letter to Chief Minister,* Hyderabad: APCLC, January 1990, p. 5.

90. Reddy, interview.

91. Reddy, interview.

92. APCLC, *Repression on the Rural Poor in A. P.,* Hyderabad: APCLC, November 1983, p. 17. Booklet.

93. See APCLC, "Bharatiya Vidya Bhavan: An Enquiry into the Parents Agitation," Hyderabad: APCLC, 30 June 1984.

94. At least six lower caste Madiga youth were killed and three women raped in mass assault by the upper caste Kammas. For further details, see APCLC, *Karamchedu: July 17, 1985.* Hyderabad: APCLC, August 1985. In 1991, in another incident, between 8 and 20 dalits were killed by upper castes. See APCLC, *The Chundur Carnage: August 6, 1991,* Hyderabad: APCLC, August 1991. Booklet.

95. See APCLC, "A Report on the pollution of Groundwater in Saroonagar," Hyderabad: APCLC, 1985; "Neighbourhood Pollution," in Monthly Report, January-February 1988, p. 5.

96. See, for example, APCLC, *"Dowry Deaths" in Vishakapatnam District (1985-1988): A Report,* Hyderabad: APCLC, October 1989.; APCLC, *Violence Against Women in the Family,* Hyderabad: APCLC, March 1991.

97. Reddy, interview.

98. Ilaiah, interview.

99. Ibid.

100. Reddy, interview.

101. M. T. Khan, Interview with author, Hyderabad, 24 December 1993.

102. This was the correct number of office-bearers according to K. Balagopal's letter to me of 8 January 1994. M. T. Khan had, however, told me on 24 December 1993 that there were 4 vice-presidents and three joint secretaries.

103. S. V. Srinivas, interview.

104. Reddy, interview.

105. Ibid.

106. Ibid.

107. Ilaiah, interview.

108. S. V. Srinivas, interview.

109. M. T. Khan is a revolutionary writer, and a former vice president of APCLC, and would seem to have the right credentials to be APCLC president. However, being a Muslim, he emerged as a consensus candidate, and as Haragopal told me, his religious identity was one of the factors in his election. Similarly, Ilaiah's caste position had helped him become APCLC vice president.

110. Ilaiah, interview.

111. As G. Haragopal explained to me later, the election was supposed to be a "smooth affair" as the general secretary had spoken to the office bearers in advance. But as he was not present at the meetings, things did not turn out as planned.

112. G. Haragopal, Interview with author, Hyderabad, 25 December 1993.

113. Reddy, interview.

114. Krishnan Murli, Interview with author, Hyderabad, 28 December 1993.

115. Reddy, interview.

116. K. Balagopal, Interview with author, Hyderabad, 27 December 1993.

117. Reddy, interview.

118. Ibid.

119. Balagopal calculated it thus: there are 20-25 members in some units; in others about 70-75; so the average is about 50 per unit. Since there are 20, there should be about 1000 members. According to K. G. Kannabiran, however, there about 2000 members.

120. Balagopal, interview.

121. Reddy, interview.

122. Ibid.

123. Balagopal, interview.

124. Reddy, interview.

125. Kannabiran, interview.

126. Reddy, interview.

127. Kannabiran, interview.

128. Balagopal, interview.

129. Jyoti Punwani, "The Real Opposition," in *Expanding Governmental Lawlessness and Organized Struggles: Violation of Democratic Rights of the Minorities, Women, Slum Dwellers, Press and Some Other Violations,* edited by A. R. Desai, Bombay: Popular Prakashan, 1991, p. 299.

130. Ibid.

131. P. A. Sebastian, Interview with author, Bombay, 29 February 1994.

132. Madhav Sathe, Interview with author, Bombay, 3 March 1994.

133. Jyoti Sakrikar, Interview with author, Bombay, 5 March 1994.

134. Ibid.

135. Ibid.

136. Ibid.

137. Sebastian, interview.

138. Ibid.

139. See for example, CPDR.*Peddi Shankar: Death By Encounter,* Bombay: CPDR, 1981; CPDR, *The Right To Be Recognised: The Telco Strike,* Bombay: CPDR, January 1990; CPDR, *Know Your Rights: A Handbook for Political Activists, Social Workers, Trade Unionists, etc,* Bombay: CPDR, 1980.

140. CPDR, "General Secretary's Report," Bombay: CPDR, 1985, pp. 1-2; see also "Credibility and Stagnation," in *Adhikar Raksha,* vol. 10, no. 4, October-December 1987, pp. 16-19.

141. See APCLC, CPDR, LHS and OPDR. *Undeclared War on Kashmir,* Hyderabad: APCLC, 1991; LHS and CPDR, *The Bombay Riots: The Myths and Realities,* Bombay LHS and CPDR, March 1993.

142. "Uniting for Civil Liberties," in *Adhikar Raksha*, vol. 4, no. 1, Jan-March 1981, p. 10.

143. Ibid., pp. 10-12

144. Punwani, "The Real Opposition," op. cit., p. 299.

145. Sathe, interview.

146. Ibid.

147. Madhav Sathe said that though he would not criticize LHS "from a public platform, but problems with them has always been there."

148. Sakrikar, interview.

149. Ibid.

150. Sathe, interview.

151. Sakrikar, interview.

152. Sathe, interview.

153. Engineer is a Bohra reformist leader, a writer and journalist, and a national vice president of PUCL.

154. Sathe, interview.

155. Ibid.

156. Sakrikar, interview.

157. Ibid.

158. Ibid.

159. See, for example, CPDR, "The Civil Liberties Movement: A Perspective," in *Expanding Governmnetal Lawlessness and Organized Struggles,* edited by A. R. Desai, Bombay: Popular Prakashan, 1991, pp. 284-88.

160. Sathe, interview.

161. Sakrikar, interview; Sathe, interview.

162. M. J. Pandey, Interview with author, Bombay, 29 February 1994.

163. Luingam Luithui and Nandita Haksar, editors, *Nagaland File: A Question of Human Rights,* New Delhi: Lancer International, 1984, pp. 34 and 61.

164. Ibid., p. 5.

165. The tribes in India are usually considered the lowest section in the Hindu social hierarchy as they fall outside the parameters of the caste system. Ela Dutt-Luithui, "Violence in India: The Case of the Naga National Movement," in *South Asia Bulletin,* vol. 5, no. 2, Fall 1985, p. 39.

166. Ibid.

167. Ibid; Luithui and Haksar, op. cit., p. 20.

168. Quoted in Luithui and Haksar, op. cit., p. 21. Nehru later changed his stand as he thought the area consisted of "rather backward people who require considerable help." Ibid.

169. Quoted in Luithui and Haksar, op. cit., p. 9.

170. Dutt-Luithui, op. cit., p. 40.

171. See the text of the Agreement in Luithui and Haksar, op. cit., pp. 150-52.

172. Dutt-Luithui, op. cit., p. 40; Luithui and Haksar, op. cit., pp. 20-32 and 150-52.

173. Dutt-Luithui, op. cit., p. 40.

174. Luithui and Haksar, op. cit., pp. 30-34 and 220-21.

175. Ibid., p. 5.

176. Ahu Sakhrie, "Introduction to the Naga People's Movement for Human Rights," in NPMHR, *Conference on Human Rights: The Official Report.* Kohima: NPMHR, 1990, pp. 3-6.

177. Luithui and Haksar, op. cit., p. 5.

178. Thejao Vihienuo, Interview with author, Kohima, 10 November 1993.

179. Luithui and Haksar, op. cit., p. 6.

180. Dutt-Luithui, op. cit., 41.

181. Vihienuo, interview.

182. Neingulo Krome, Interview with author, 10 and 11 November 1993.

183. Krome, interview.

184. Ibid.

185. Dutt-Luithui, op. cit., p. 41.

186. A Naga Deputy Commissioner recently refused to attend a seminar "Nagas in the Year of the Indigenous Peoples," organized by the NPMHR, as he feared he would antagonize the army authorities. Vihienuo, interview.

187. Ahu Sakhrie, op. cit., p. 5.

188. *Nagaland Post,* 9 November 1993, p. 2.

189. Krome, interview.

190. Ibid.

191. NPMHR, *Conference on Human Rights: The Official Report,* Kohima: NPMHR, 1990, p. 2a.

192. Vihienuo, interview.

193. Vihienuo, interview.

194. Krome, interview.

195. Krome, interview.

196. Ahu Sakhrie, op. cit., p. 4.

197. Vihienuo, interview.

198. Krome, interview.

199. Ibid.

200. The unit is supposed to be based in JNU; but in spite of my efforts, in which I was aided by some Naga students in JNU, I could not find any member of NPMHR, or anyone who knew that a unit existed in Delhi.

201. Krome, interview.

202. Ibid.

6

Governmental Response and Organizations

Even though states are the protectors and guarantors of human rights, they are invariably the greatest violator of human rights. It is not surprising, therefore, that states or governments have been the primary targets of rights organizations. The Indian government too has been targeted for rights abuses. Criticisms have come from international organizations such as Amnesty International, from Indian organizations, and from the United States. Section 1 of this chapter looks at the nature of response of the Indian government to criticisms from various quarters. In examining the government response, I show how a shift in policy has come about.

Sections 2 and 3 look at two governmental organizations. The Madhya Pradesh government established the Madhya Pradesh Human Rights Commission (MPHRC) as a state-level organization in 1992; and the Indian government established the National Human Rights Commission (NHRC) as a national body as recently as September 1993. I describe what pressures led to their establishment, and how they actually function. The contrast between the two organizations is a significant theme of this chapter.

1. Response of the Indian Government

Gandhi's non-violent campaigns were chiefly responsible for the image of India as a spiritual land, dedicated to peace and democracy, especially in the years immediately following independence. This was further strengthened by Nehru's constant championing of the cause of peace and non-violence in international affairs. But this image was shattered by the early 1960s, one of the main reasons being India's "military action" in Goa in December 1961. The 1960s also saw India "resisting Chinese aggression with force" and constant conflicts with

Pakistan, which continue till this day.[1] However, it was only in the 1970s that international concerns with human rights issues began to be voiced, first during the 1971 war with Pakistan, and later during the Emergency. Throughout the 1980s, this international concern grew, but it was only in the 1990s that it evinced some positive response from the Indian government.

Similarly, in the domestic context, after independence there was a lot of expectation and optimism -- and consequently, relative indifference to human rights issues. Even though there were violations, there was "a tendency to minimise those violations." The "process of disillusionment" with the state machinery was gradual.[2] While discontent grew in the 1960s, it was only by the late 1960s that "both the privileged social classes and the government systematically cracked down on groups fighting for the rights of traditionally oppressed peoples."[3] As already described, the state power was seen in its most oppressive form during the Emergency. It is immediately after this period that various human rights groups established and consolidated themselves. The government's response to indigenous organizations throughout has been one of indifference, when not branding them as working against the "national interest."

Before reviewing the response of the Indian government to allegations of rights abuses, it might be pertinent to see what the source of such abuse is, and why activists describe India as a "lawless state." Most of the abuses are perpetrated by the police in the form of illegal arrests, torture, causing people to "disappear" or causing deaths in custody. It is hardly surprising that about 50 per cent of the complaints received by the National Human Rights Commission in the first three months of its functioning were related to police excesses. S. Subramanian, who has held various high positions in the police force, confirms that "police often indulge in elimination of adversaries through illegal methods."[4]

Police officials are often socialized in a culture where they think that law and order can only be maintained with the help of a *danda* (stick). They do not think that torture is wrong. This was also the view of a young police officer in 1935, who later became director general of Central Reserve Police (CRPF), a paramilitary force.[5] Apparently there has not been much change in the attitude of the police force in the last fifty years. As a serving police officer told me, even

though their formal training might emphasize that it is unlawful to torture prisoners, they often find that the "situation in the field is different." He said in all seriousness, "You can't give a prisoner a cup of tea, and ask him questions. It requires drastic measures!"[6]

Such drastic measures are also endorsed by fairly significant sections of the bureaucracy and political elite, according to Vijay Karan,[7] who as police commissioner launched a drive to root out the problem of torture from the Delhi police force. A similar view is held by Ved Marwah, another former police commissioner of Delhi, who says: "The use of third degree methods, illegal detention of suspects. padding of evidence, to mention just a few, it must be admitted have all got tacit approval not only of some police officers, but also that of a section of the administration and the political leadership."[8]

Two senior civil servants deposing before the Uttar Pradesh Police Commission in 1970-71 said that "the third degree methods of the police have good utility and they are the only effective means of controlling bad characters." Karan remarks that "India has a very strong pro-torture lobby which argues that torture just cannot be avoided in India's environment."[9]

With the rise of militancy in the Punjab, the police were given a free hand to deal with the situation. Ribeiro, who once headed this force, has this to say: "In Punjab, police methods have traditionally been based on tribal traditions which include revenge and vendetta . . . Such methods were prevalent before the advent of terrorism but with the onset of terrorism have become more widespread."[10]

The consequence of such "culture" has been that the political administration has conceded greater arbitrary powers to the police and paramilitary forces. Thus Haragopal has argued, on the basis of his experience in Andhra Pradesh that the police force has increasingly become more "autonomous" and that the "political system no longer retains any effective control over it."[11] Similarly, the army too is given "a free hand to counter insurgency," especially in the northeastern states of Nagaland and Manipur -- where the local state police is suspected of conniving with the extremist guerillas.[12]

Response to Intergovernmental Concerns

Many countries find themselves in a position of being required by international opinion to endorse the Universal Declaration of Human Rights and the two International Covenants even though social divisiveness and political constraints, coupled with an inefficient institutional framework and adequate resources, make it impossible to comply with the accepted requirements.

India is a signatory to the Universal Declaration. In 1979, the Janata government ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). However, it made an important reservation on the applicability of the safeguards against arbitrary arrests and detention and also denied any right of compensation to such victims.[13] Additionally, the government has not ratified the Optional Protocol to the ICCPR which allows individuals to petition the UN Human Rights Commission for alleged breaches of the Covenant after all domestic legal mechanism have been exhausted. The government's point of view is that "the complaints by individuals against any executive action should be dealt with only by national courts and not by an international organization. It is, therefore, not considered necessary to ratify the Protocol."[14]

Governments which have acceded to the ICCPR are required to submit a report to the UN (Article 40) within one year after the Covenant enters into force; subsequent reports are due every five years. These are received by the UN Human Rights Committee, a body of 18 experts, which monitors the implementation of the Covenant. The Indian government has not always kept to the schedule.[15] More recently, the UN platform has been used more for politics rather than looking at human rights issues. This led Amnesty to remark that in 1994, the UN Human Rights Commission was "paralyzed by the acute politicization of the debate on Jammu and Kashmir."[16]

A new method seems to have been devised by the Indian government to tackle criticism at international fora -- through the use of GONGOS (government organized non-governmental organizations). The much publicized, UN-sponsored World Conference on Human Rights was held in Vienna from 14 to 25 June 1993,

and attended by some 7,000 participants representing 171 countries, including more than 800 non-governmental organizations. Representatives from India included government officers, rights organizations like the PUCL and APCLC, and some "GONGOs." Haragopal, who attended the Conference, has described what GONGOs are, and what their role was at the Conference.

> Another facet of the Indian government's performance at the World Conference was presence of shouting brigade who were characterised by the press at Vienna as GONGOS meaning Government Organised Non-Governmental Organisations. These GONGOS were given the task of 'defending' the governmental violations. As a part of this task they resorted to very aggressive behavioural modes whenever there was some critical comments from the other Indian non-governmental representatives. In the very first meeting between the governmental delegation and the non-governmental, these GONGOS created considerable confusion. The possibility of a meaningful exchange between the two sides got totally narrowed down. Some of the well-meaning delegates from the NGOs stopped attending these meetings. The quality and character of some of these GONGOS was so low and poor that one wondered how they were chosen for 'the task' that was 'assigned' to them.[17]

The "crude and uncivilized" methods adopted by the GONGOS have also been criticized by many other participants.[18]

International Concern: Britain and the US

The attitude of Britain and the US constitute Western public opinion as far as India is concerned. Most of the criticism from these countries has been with reference to police and army atrocities in Punjab and Jammu and Kashmir.

In Britain, while some individual members of parliament have criticized India for its human rights record, and the issue has also been debated in the parliament, the British government has not openly criticized the Indian government as it is "sympathetic," understands the situation in Kashmir and "is inclined to see army atrocities in the context of abuses committed by the militants fighting the security forces in Kashmir."[19] In fact, it has even paid compliments to India on its human rights policy.[20]

Pressure from the US has come from individual congressmen, state department officials and even the president. Congressmen have been demanding aid cuts, insisting that military and training assistance be made conditional upon improvement in India's human rights record.[21] State department officials have made statements asking the Indian government to allow organizations like Amnesty International to visit Kashmir.[22] The US government has also had "extensive discussions with India over human rights issues."[23]

The US state department, in its annual human rights report for 1993, said that a "significant level of human rights abuses" continued in India throughout the year. It also noted that during 1993 "the government grew increasingly sensitive to allegations of police abuses and took steps to address the problem. Though the government sought to address human rights concerns by opening dialogues with international human rights groups, create a national human rights commission and enhance human rights training of security and army personnel, these efforts 'produced only modest results.'"[24]

Publicly, the Indian government has responded by saying that it did not condone any incident of violation of human rights by the security forces, and whenever such incidents have come to its notice, action had been taken; or that most allegations pertained to an abnormal situation in Kashmir where the government was fighting "a proxy war with the militants backed by Pakistan." On at least one occasion, the US was told rather bluntly that India "did not need any advice or exhortation from any other country as its commitment to it was total and second to none."[25]

However, owing to international pressure, the Indian home ministry decided in 19 July 1993 "to allow certain human rights organizations to visit India."[26] Later Amnesty International was allowed to visit India, but not Kashmir. In February 1994, the ambassadors of three European countries along with a representative of the European Commission visited Kashmir. They were followed by ambassadors of ten other countries.[27] In March 1994, for the first time since the eruption of militancy in the state, a team from the International Red Cross was allowed to visit Kashmir "to see the condition of hospitals and rehabilitation of victims of terrorist abuse."[28]

Response to Amnesty International

Amnesty's work has brought angry reactions from different parts of the world over the years. It has been condemned as leading a campaign of "anti-socialist propaganda by the former USSR and called an "instrument of communist terrorism" by Brazil.[29] This is mainly because governments can be sensitive to criticism coming from abroad. In this respect, India is particularly sensitive. This fact is recognized and understood by Amnesty. One of its documents cautions its letter writers: "Be very polite. The Indian government is known to be extremely sensitive towards criticism coming from outside India."[30]

Amnesty has been criticized time and again by the successive governments in India, from the time of the Emergency onwards. Criticizing Amnesty in August 1975, the then prime minister, Indira Gandhi said, "We learn that the Socialist International and Amnesty International are two organizations which are very active in the hate-India campaign. They are flush with funds. One wonders from where these come."[31]

As mentioned in chapter 3, Amnesty was allowed to visit India during the Janata regime in 1978. Thereafter, throughout the 1980s, it was not allowed access to India for carrying on research or investigation. In 1990, Rajiv Gandhi, pressurized the Janata government not to allow Amnesty into the country.[32]

The first response was countering the allegations made by Amnesty in a report on Punjab in 1991. It was a 31-page response, "the first response of its kind to Amnesty International by any Indian administration," and was conveyed by the High Commission of India in London. The government claimed that Amnesty's report was biased and exaggerated. For example, it said there were between 1,000 and 3,000 arrests made yearly under the Terrorist and Disruptive Activities (Prevention) Act (TADA) and disputed Amnesty's figure of over 10,000 detainees in the state. Amnesty, however, claimed that "the government's response does not in any way invalidate our report on human rights violation in Punjab."[33]

In 1992, Amnesty published its report, *India: Torture, Rape and Deaths in Custody,* which received widespread media coverage.[34] Members of the Rajya Sabha (upper house of the Indian parliament) took strong exception to this report, and described it as a part of an "anti-India" campaign. A former finance minister alleged that Amnesty "was an agent of CIA (American Central Intelligence Agency)."[35] In criticisms of Amnesty, it is often implied that it is "meddling in the internal affairs" of the country.[36]

The Ministry of Home Affairs accused Amnesty of "acting in a hurry," and not giving the government "sufficient time to react to the allegations. It only informed the Indian High Commission in England that Government of India should send its reply within a week which was not possible and the Government of India had asked for at least six weeks time. But the Amnesty International released the book without awaiting the Government version."[37]

The ministry also attacked Amnesty for being quiet on the fact "in the States of Punjab and Jammu and Kashmir alone a total of 1,487 policemen, including officers, had been killed by terrorists in the last three years. Another 235 people, all relatives of policemen had also been killed by the terrorists."[38]

The government's case was that it was only exercising powers within Article 40 of ICCPR which states that a government "may take measures derogating from obligations . . . to the extent strictly required by the exigencies of the situation." Further, that Amnesty had failed to take into account the "special" situation in Kashmir and Punjab and ignored violations by militant groups.[39] Inaugurating the Chief Ministers' Conference on Human Rights in September 1992, the prime minister, Narashima Rao said:

> I would like to remind you that it is necessary to take note of the complex problems created by insurgency, terrorism and extremism in certain parts of the country. We cannot have a situation in which human rights are seen to be the preserve of the practitioners of terrorism and secessionism while those dealing with the menace courageously in extremely difficult circumstances are falsely condemned for violations of human rights.[40]

Explaining why Amnesty was allowed into the country in what seemed to be a reversal of government policy, one official, who wished to go "on record," stated that the earlier position was that "we did not need a certificate of good conduct from anyone." But in the 1990s, it was decided to let Amnesty in because of the changed world political scenario of the post-cold war period.[41]

> There was immense political pressure to let in Amnesty teams. Our political friends told us that it was important to seem to have a good human rights record, and that it might help by letting Amnesty into the country for specific investigations . . . In the present international scene, it is important to have a positive image.

Around this time the Indian High Commission in London, headed by L. M. Singhvi, became very active in putting across the government point of view to international media and British politicians. It began to issue "fact-sheets" of individual cases to Amnesty, often refuting the allegations. The government also published a booklet to counter the allegations.[42] A policy decision was taken that all response to Amnesty would be routed through and issued by the High Commission -- even though complaints or queries might be addressed to the central government or state governments, as is often the case. Additionally, to demonstrate that the government was serious about human rights issues, it was decided to answer all individual letters or complaints received by the High Commission (which were earlier ignored).[43]

As a result of international political pressure, an Amnesty team was finally allowed entry into India for discussion in 1992. It was a four-member team led by its former secretary general, Ian Martin. This paved the way for a fact-finding mission in January 1994 to investigate communal riots in Bombay.[44] Thus, the present situation is that Amnesty teams may visit India, but "sensitive" areas like Kashmir still remain out of bounds for the organization.

Response to Indian Organizations

The Indian government (as indeed various state governments) have not taken Indian rights organizations seriously. They are seen as "minor irritants," best ignored in most cases. The usual impression is that "four people get together and produce a report . . . so (there is) no objectivity."[45]

In the late 1980s and early this decade, when human rights became much more of a public concern, the government tried to project rights organizations as "friends of the terrorists." As Randhir Singh has noted, "they are portrayed, attacked or dismissed as 'front organizations' -- for 'anti-national forces,' 'terrorists' or 'secessionists,' or, . . . the 'naxalites.'"[46]

However, the government has also taken the help of rights organizations when it has suited them. One such example is the Koyyur kidnapping case, where APCLC helped them negotiate the release of captives held by the Naxalites.[47] Even this did not endear them to the police or civil authorities.

> It is very instructive to note that the very next day the DGP (Director General of Police) and the home minister made very uncalled for comments on the APCLC and its leadership. This shows that the attitude of the police towards civil liberties organisations underwent no change; it might have, in fact, become more antagonistic.[48]

That the government does not take the rights organizations seriously was evident in its background paper which was prepared before the setting up of the NHRC. This paper recommended that the NHRC ought to work independently of the rights organizations in the country.

> The role of non-governmental organisations (NGOs) in relation to the Commission would also require consideration. A number of such organizations are active in the field of human rights. While some of them are objectively committed to the cause of human rights, some others have strong political and other leanings. The Commission may, therefore, have to operate independently of the NGOs.[49]

This view came under severe criticism from activists and organizations. Consequently, the NHRC Bill envisaged one of the functions of the Commission to "encourage the efforts of the non-governmental organizations working in the field of human rights."[50]

Prior to the setting up of the Commission, discussions on the background paper were held in Calcutta, Hyderabad, Bombay and Delhi.[51] Some individuals associated with rights organizations were also invited -- not as representatives of their organizations, but in their personal capacities. Two incidents occurred, one at Calcutta and one in Hyderabad, which left the rights organizations convinced that NHRC was intended to be an institution to "fool the people."

In Calcutta, the state government organized a seminar on 16 November 1992 concerning the setting up of the Commission. One of the speakers was the chief minister, Jyoti Basu. Earlier the same day, APDR had issued a press statement raising some questions, particularly about deaths and rape in police custody in the state of West Bengal.[52] During the seminar, when some APDR members tried to ask questions -- six APDR activists, including its secretary, Sujato Bhadra, were arrested for trying to "create trouble."[53]

Similarly, in Hyderabad, a seminar for South India was organized. The chief secretary of Andhra Pradesh had issued invitations to Kannabiran and Haragopal, president and vice-president of APCLC -- in their "individual capacities." However, a day before the seminar, a joint secretary in the Ministry of Home Affairs rang up to say that the invitation to Kannabiran was being withdrawn. To protest against this action, Haragopal, too, did not attend the seminar arguing that "the process indicated lack of sincerity."[54]

In Bombay, representatives of rights organizations were simply not invited; and in Delhi, the seminar was "held in a much more secretive fashion."[55] The already sceptical rights organizations were now convinced that government effort to establish a human rights commission was "eye-wash."[56]

2. National Human Rights Commission (NHRC)

The same concerns which led India to grant access to Amnesty International to visit and conduct investigations, led it to establish a National Human Rights Commission. According to one commentator, the government was "keen to get a clear chit from" Amnesty.[57] It was essentially a matter of "image management." Speaking at a Conference of Chief Ministers, the prime minister, said, "If . . . there is a feeling within the country or abroad that Government is not serious about infringements of Human Rights then it is a matter of serious concern and needs to be dispelled with all the emphasis at our command."[58] One way of dealing with this problem was to set up a National Human Rights Commission. The background paper, which discussed and suggested the creation of a commission, showed the same concern with international opinion.

> There has been growing awareness in the country and abroad about issues relating to Human Rights. National and international organisations in this field have been highlighting alleged violations of Human Rights by various Government functionaries. There is a growing feeling that the Government is not serious about such violations and excesses and bringing the guilty persons to book . . . any impression of Government's lack of seriousness on the issue of Human Rights is a matter of serious concern and needs to be dispelled . . . One of the proposals in this regard pertains to the setting up of a Human Rights Commission at the National level.[59]

The same sentiments were expressed by the home minister in the parliament on 19 December 1993: that a commission was being formed to counter international allegations of human rights abuse in the country. He said that the creation of the NHRC "would foul the designs of some countries to malign India at the United Nations and other international fora."[60]

While the government's motive seems clear, how does the Commission see its role in relation to the government? According to the chairman of the Commission, "the organization will not do anything directly in this matter, but its actions will obviously help the country in certain ways."[61] The secretary general of the Commission explained it thus:

> We are not a government department. We are something outside it, though the efforts we are making are with a view to sort of helping it . . . The effort of NHRC is to promote and protect human rights. In the performance of this task, there may be areas where there is a conflict of interest with the government or there may be areas where the interest of the government and NHRC go hand in hand.[62]

The non-governmental rights organizations, however, fear that it would be more the case of the government and the NHRC going "hand in hand."

Structure

The Human Rights Commission Bill (Bill No. 65 of 1993), hereafter called the Bill, was introduced in the Lok Sabha (lower house of the Indian parliament) in May 1993, but before this Bill could be passed, the government established the NHRC through an ordinance on 28 September 1993 (No. 30 of 1993).[63] Subsequently, another Bill was introduced in the Parliament, which was passed in December 1993, and received the assent of the president of India on 8 January 1994 (No. 10 of 1994), and became an Act, the Protection of Human Rights Act 1993, hereafter called the Act. This final Act is different from the earlier Bill. In looking at the structure of the NHRC, it would be worthwhile to point out some of the changes.

Chairperson. According to the initial Bill, the NHRC would have had as its chairperson, a serving or retired judge of the Supreme Court, but the Act provides that the chairperson must be a former chief justice of the Supreme Court and not above seventy years of age.[64] This obviously restricted the choice in selecting the chairperson. Justice Ranganath Misra was appointed chairperson, who is very unpopular with the rights organizations.[65] His appointment was seen by them as further proof of the cavalier attitude of the government.

Other Members. According to the Bill, there would have been four other members in the Commission, of whom three would have been senior, serving or retired, civil servants (of the rank of secretary to the government of India), representing general administration, police, and legal affairs. According to the Act, one

member would be a serving or retired judge of the Supreme Court; another would be a serving or retired judge of a High Court, and two other members would be "from amongst persons having knowledge of, or practical experience in, matters relating to human rights."[66] Under this clause, a former UN official has been made a member of the Commission. This has been criticised by the rights organizations who would have preferred a person "from within the country." A section of the media, too, has questioned the fact that the "selection committee . . . chose to keep out human rights activists."[67] However, from the government point of view, it does make sense to include a person well versed in international diplomacy.

In addition, the chairpersons of the National Commission for Minorities, the National Commission for Scheduled Castes and Scheduled Tribes, and the National Commission for Women are *ex-officio* members of the NHRC.[68] Thus in addition to the chairperson there are seven other members.

Secretary General. The chief executive officer of the Commission is called the secretary general. He must be a serving civil servant of the rank of the secretary to the government of India, and "all orders and decisions of the Commission shall be authenticated" by him.[69]

The chairperson and full time members are chosen by a panel comprising of the prime minister, home minister, speaker of the Lok Sabha, deputy chairman of the Rajya Sabha and leaders of the opposition in both houses of parliament. To appoint a sitting judge of the Supreme Court or a chief justice of a High Court, consultation with the chief justice of India is mandatory.[70] A strict procedure for the removal of the chairperson and members has been codified.[71] They cannot be "removed at the will of the executive to which they are beholden" as PUDR has erroneously critiqued.[72]

Other Staff. It is the responsibility of the central government to provide staff to the Commission.[73] Six months after its formation, in March 1994, it had a total staff of 45. According to the secretary general, the estimated number of staff required was 470. It was envisaged that the Commission will have five divisions: administrative, law, investigative, research and public relations; each division will

be headed by a senior civil servant, and have the corresponding number of junior staff.[74]

The *Administrative Division* will be headed by a joint secretary, and have a corresponding number of directors, under secretaries, and other staff. The *Law Division* will be headed by an additional secretary (called the registrar), and have joint registrars, and assistant registrars below him. This division will receive complaints, process them, and put them up before the Commission. The *Investigative Division* will be headed by an officer of the rank of director general of police (DGP), and have other officers down to the rank of inspectors, but no officers below this rank -- "for we do not want cases of human rights to be taken up by ordinary constables, or people who are not sufficiently educated, or who do not have the right motivation." The *Research Division* headed by a director, will be responsible for gathering comprehensive information on rights violations, including all aspects of individual cases which are brought before the Commission. As "one of the characteristics of the commission is its transparency," the *Information and Public Relations Division* will assume a significant role. One of its responsibilities will be to speedily publish reports after the Commission makes any recommendations to the government. The Commission recognizes that "interaction with the public is going to be very important so we need to have a well motivated PR (public relations) set up."[75]

Nature, Aims and Activities

The aims and functions of the Commission are to inquire -- either on its own or on receipt of a petition -- into cases of human rights violations or the "negligence in the prevention of such violation by a public servant"; to intervene in judicial proceedings related to human rights (with the approval of the court) or in the case of "public servants," recommend appropriate measures to the government; to visit and review jails conditions; to review legal and constitutional provisions, international laws and treaties relating to human rights; to spread human rights literacy and awareness in the country; and to encourage and support the efforts of non-governmental organizations in this area.[76]

The Commission can, therefore, investigate any case of human rights violation by state agencies. The earlier Bill made a specific provision for the Commission to investigate "terrorist acts committed by any section of the people," but this has been considerably toned down in the Act, which requires it merely to "review the factors, including acts of terrorism, that inhibit enjoyment of human rights."[77]

The Commission cannot take up cases for investigation which are "pending before a State Commission or any other Commission duly constituted under any law for the time being in force."[78] This provision has been made with a view to avoid duplication, but critics such as PUDR maintain that "Effectively it means all matters taken to any of these commissions (on Scheduled Castes and Scheduled Tribes, Minorities, and Women) are ruled out of the purview of the Human Rights Commission. That includes matters related to scheduled castes, scheduled tribes, minorities and women!"[79]

Another clause bars the Commission from inquiring into any "matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed."[80] This provision has attracted widespread criticism, and the Commission has recommended to the government that this provision be amended. It also proposes to seek amendment to the Act so that it is empowered to grant interim relief to victims of human rights violations.[81] The Act provides that the government may make additional provisions or alterations in the Act within a period of two years from the date of commencement of the Act.[82]

While investigating a case, the Commission has the powers of a civil court, which means that it can summon and enforce the attendance of witnesses, and requisition production of any relevant document or information. Authorized staff of the Commission can also enter buildings to procure any relevant documents.[83]

To facilitate investigation, the Commission can utilize the services of any government official or investigative agency.[84] It has done so in respect of two of the earliest cases (of custodial deaths) taken up by it -- one in Delhi and the other in Pondicherry. In both these cases it did not ask the police but members of the judiciary to investigate the cases, allaying fears that it would eventually use the

police force to investigate incidents for which they are themselves responsible. In the case of the custodial death in Delhi, the Commission was not satisfied with the magisterial enquiry conducted by Delhi Administration, and asked for an additional investigation by a judicial officer.[85]

In exercise of powers vested in it to regulate its own procedure,[86] the Commission has proposed to have its own investigative division.

> The Commission shall have its own team of investigation to be headed by a person not below the rank of a Director General of Police appointed by it and the team shall consist of one Deputy Inspector General of Police, 2 Superintendents of Police, 6 Deputy Superintendents of Police and 24 Inspectors of Police and such category of officers as the Commission from time to time decides. The Commission may in any given case appoint an appropriate number of outsiders to be associated with the investigation either as Investigators or Observers.[87]

The Commission has detailed its procedure for dealing with complaints. All complaints would be "placed for admission before a Bench of two Members" within two weeks of the receipt of the complaint. The Commission may then decide to hold an inquiry; it may "afford a personal hearing to the petitioner;" its hearings can be held in Delhi or any other place in the country; copies of inquiry reports and orders would be furnished free of cost to the petitioner or his/her representative.[88] Upon completion of an inquiry, the Commission can recommend to the government to initiate proceedings for prosecution of the concerned public servant; recommend interim relief to the victim or the members of his family; and/or approach the Supreme Court or High Courts for directions, orders or writs.[89]

If the Commission makes a recommendation to the government about any specific case, the government is obliged to reply detailing any action taken or proposed to be taken -- within a period of one month.[90] According to the earlier Bill, this period was three months.[91] The Commission is free to publish its recommendations together with the comments of the government.

In cases where the armed forces are involved, the earlier Bill had given the Commission virtually no powers. It could seek a report from the government (for

which there was no time limit), and on the receipt of the report, make recommendations. This is where the matter would have ended.[92] According to the Act, though the Commission cannot investigate any incident where the armed forces are involved, it can seek a report from the central government. On receipt of a report, the Commission may recommend action, and the government is obliged to reply regarding action taken or proposed to be taken within three months. The Commission can also publish its recommendations (with the comments of the government).[93]

It is significant that one of the first cases the Commission took up was the killing of 37 persons in Bijbehara, Kashmir, by the Border Security Force (BSF), a paramilitary force. The Commission asked for a report and the government replied that punitive action had been taken against 14 BSF personnel. It then further asked the government to produce recorded statements of the victims to satisfy itself that all those responsible had been punished.[94] Thus, though the Commission has no investigative powers with regards the armed forces, its view is that the provisions regarding the armed forces are "adequate, considering that in other countries the armed forces are entirely beyond the reach of the human rights commissions."[95]

Funds. The expenditure of the Commission, including salary of the staff is to be met out of grants made by the central government. The Commission is required to keep proper accounts and prepare an annual statement, which would be audited by the comptroller and auditor general of India.[96] It is obliged to submit an annual report and special reports on matters of urgency or importance to the government, which will laid before each house of parliament along with a memorandum of action taken or proposed to be taken by the government.[97]

Activities

Though rights organizations have shown little confidence in the Commission, and opposition leaders have called it a "toothless tiger,"[98] it has nevertheless been able to highlight various significant issues. In some cases that it has taken up, it has also met with partial success.

Information about cases which were not generally available to rights activists can now be obtained by the Commission -- as it has powers to ask for such information from any agency. In a case of custodial death in Delhi, while PUDR activists were having difficulty in obtaining a copy of the First Information Report (FIR) from the police or any other relevant information about the case, the Commission obtained all information related to the case with ease and released it to the press, thus making the information "public." A similar case in Dehradun received the same treatment: the Commission took up the matter with the state government, and released a statement to the press about the nature of the complaint and the action taken.[99] As the Commission's statements get wide media coverage, actions like these have resulted in more public awareness about such issues.

An outstanding feature of the Commission is that it has adopted a policy of "transparency" in its functioning. It has no "internal records." As the chairperson said:

> Any document that is with the NHRC is open to public. Anybody who wants to see it can see it. Of course, NHRC has powers to classify documents for itself, but it has not started doing it and probably will not.[100]

Its hearings are open to the press and its orders and recommendations to the government are publicized. Additionally, if the government fails to take action on its recommendations, the Commission is prepared to "generate public opinion through the media."[101]

In December 1993, it took a serious view of custodial deaths and the responsibility of district officials. It instructed all district magistrates and superintendents of police to inform the Commission about any custodial deaths in their districts "within 24 hours of their occurrence or of having come to their knowledge." It warned that "failure to report promptly would be treated as an attempt to suppress the case."[102]

Within a month, a complaint came from Tamil Nadu about a custodial death in Pondicherry, which had not been reported. The Commission acted promptly:

firstly, it appointed a retired judicial officer to conduct an investigation; and secondly, it called for an explanation from the concerned chief secretary about the case and the conduct of the district officials.[103]

In another case of custodial death in Meghalaya, after the Commission took up the case and wrote to the state government, the next of kin of the victim was given a compensation of Rs. 50,000 and a member of his family was given employment. The policeman who had allegedly caused the death was suspended and a criminal case was initiated against him by a panel headed by a retired High Court judge.[104]

A majority of the cases taken up deal with atrocities committed by the police. Some other cases dealt with have been that of an Untouchable woman being paraded naked in Allahabad district, and the tattooing on the foreheads of three women alleged to be pickpockets by the Punjab police. The Commission took up these cases *suo moto*. In the tattooing case, as the victims refused to accept any intervention by the state government while the case was pending before the High Court, it decided to intervene and appointed a counsel to appear on behalf of the victims.[105]

Environmental Issues. More recently, the Commission took up an "environmental issue" in response to petitions by a Supreme Court lawyer and a British human rights activist. It was a case of arsenic poisoning in West Bengal, where hundreds of thousands of people are affected by the high content of a deadly metalloid in tube-well water, causing "physical affliction such as skin disease and damage of the liver and nerves." The Commission issued a notice to the government of West Bengal seeking details of "ecological disaster shaping up in six districts of the state."[106]

Whereas environmental issues are recognized as part of human rights, and rights organizations have themselves been active in taking up such cases, this particular action by the Commission has raised questions whether it should get involved in such "high-profile issues." The action is not being criticized *per se,* but legal experts question whether the Commission should be venturing into areas for which it does not have the requisite expertise. A Supreme Court lawyer and rights

activist, Rajeev Dhavan, has argued that "The NHRC is not an environmental body as such and such interventions could end up as empty gestures . . . No Commission should spread itself too thin." Another Supreme Court lawyer has called for the establishment of a separate environmental commission.[107]

Human Rights Teaching. The Commission has earnestly taken up its assigned task of spreading human rights literacy and awareness in the country. It has opened discussions with the central government and relevant educational authorities like the National Council for Educational research and Training (NCERT) and the University Grants Commission (UGC) for introduction of human rights teaching in schools and universities. It has also sought and succeeded in getting the support of UNICEF in this matter. Poona University and Benaras Hindu University have agreed to set up human rights cells. The Commission has also sought inclusion of human rights courses for police, paramilitary and army personnel.[108]

3. Madhya Pradesh Human Rights Commission (MPHRC)

Unlike the NHRC, which was established by an Act of parliament, the Madhya Pradesh Human Rights Commission (MPHRC) was established up by an executive order of the Madhya Pradesh state government through notification of a resolution in the *Madhya Pradesh Gazette* of 6 January 1992. In doing so, the ruling Bharatiya Janata Party (BJP) government was fulfilling one of its election promises made to the electorate in the 1991 elections.[109]

The BJP is a right-wing Hindu party. According to its ideology, India should be a "land of Hindus." Thus it is often claimed that by its very nature, this party is intolerant towards peoples of other religions or religious minorities, including the Christians.[110] Since Muslims form a "majority" among the religious minorities, they are the BJP's primary target. It further believes that the minorities (or more specifically, the Muslims) are being "pampered" and that there should not be "special bodies to look after their interests."[111] The State Minorities Commission -- which had been functioning in the state of Madhya Pradesh since 1982 -- was seen to be an instrument to "pamper" the Muslims.

The MPHRC was established by merging the functions and responsibilities of the already existing State Minorities Commission with the newly constituted Commission. The setting up of this Commission, therefore, fulfilled two functions: it abolished the State Minorities Commission; and the BJP also claimed credit for being the champions of "secular" human rights. The government resolution said,

> It is the firm belief of the Government that the integrity of the Country can have strong foundation only when the people give up narrow loyalties based on caste, religion, language, sex and regionalism and develop an Indian identity.[112]

The BJP government was taking away the special privileges of the Muslims by seemingly extending the advantage of institutional mechanism to *all* sections of the population. The resolution said, "The doors of this Commission shall be open, apart from the minorities, to all sections of society including members of the Scheduled Castes, Scheduled Tribes, Backward Classes, women, children, handicapped and other weaker sections."[113] Thus, the BJP government claimed that "while the Minorities Commission served only four per cent of the population, the MPHRC has responsibility for 100 per cent of the population."[114]

Structure

The Commission has a chairman and can have six other members. The former has the rank of a cabinet minister, and the latter have the rank of ministers of state. Their term of office is for three years. No guidelines are provided for selecting the chairman or members in the government resolution. This means that the government of the day would be free to appoint anyone it wished. It is not surprising, therefore, that all appointments have been "political."

Chairman. Its first and only chairman, Khalil Ullah Khan, an advocate, was appointed on 13 February 1992. As he confessed in an interview, he had no idea of what human rights meant prior to his appointment.[115] His only qualification was that at the time of his appointment, he was one of the rare Muslim members of the BJP.[116] His appointment was meant to placate the Muslim community.

Other Members. In spite of the provision of a maximum of six members, only two members, Ramchandra Sharma and Govind Ram Miri, both BJP politicians, were appointed as members of the Commission in February 1992.[117] As their appointments were not confirmed after a year, they had to leave in February 1993. From that period onwards the Commission has functioned without any members.

Secretary. There is a secretary "who will be an officer of the IAS (Indian Administrative Service) in the Supertime Scale."[118] In other words, only a serving civil servant. from a particular service, can be made secretary of the Commission. The secretary is the chief executive officer of the Commission and has all financial powers vested in him.

In less than two years, the Commission had four different secretaries: B. Prasad, from February to November 1992; D. R. Bhagat, from November 1992 to March 1993; A. Samal, who was secretary for only a week in the last week of March 1993; and V. K. Kapoor, from April 1993. The position of secretary is not one that senior civil servants fancy as it is without any "real powers or perks." The serving secretary would be more than happy to be posted somewhere else.[119]

Other Staff Members. The Commission has one research officer. Two persons have already served in this position; the second was transferred to another government department in December 1993. There is provision for one section officer (vacant since January 1993) and one office assistant (also vacant). There are seven lower division clerks and eight peons.[120] The staff members are government servants, deputed to the Commission from various other departments.

The Commission has written to the government asking for a total staff of 156, which has not yet been approved. If its proposal were to be approved, the Commission would be divided into seven sections. Each section would have a research officer, a section officer, an office assistant, two upper division clerks, one accounts officer, one investigator, one computer analyst, two lower division clerks and two peons.[121]

The Commission believes it is handicapped by a lack of proper staff, and has asked the government to make available to it law officers, social scientists,

economists, judicial officer, and police officers -- including at least two officers of the rank of deputy collector -- to coordinate its work and conduct inquiries in remote areas in the state.[122]

It has also pointed out lack of infrastructure to conduct investigation. Its operates from the office of the former Minorities Commission. It has pointed out that considering the volume of work it must take up if it has to function effectively, its present office is inadequate. It has sought a larger office space for visitors, library, photocopier, computers, and a conference room.[123]

Problems of transportation have slowed down the Commission's work. At present, the Commission has one car at its disposal, which is used by the chairman. While asking for more vehicles, it has pointed out that a government department must have vehicles to work efficiently, and that depending on public transport like auto-rickshaws is not the most efficient way of functioning.[124] However, this problem is likely to be solved automatically once senior officers are posted to the Commission.[125]

As the entire staff is composed of government servants, their salary is taken care of. But lack of appropriate funds has been a constraint in carrying out its activities. The budgetary provisions of the Minorities Commission was transferred to the MPHRC. The government has not provided a separate budget for this Commission.[126]

Nature, Aims and Activities

The Commission has been entrusted with the following tasks: to inquire into specific complaints regarding infringement of rights, cases of injustice and exploitation of all citizens; to examine the implementation of constitutional safeguards relating to civil and political rights (Articles 14, 15, 17, 21, 23 and 24 of the Indian constitution); to recommend ways and means for their effective implementation; and "to create public awareness by dissemination of information regarding the policies of the Government . . . and also the work being done by the Commission."[127]

The scope of the Commission is very limited as it can only make recommendations to the government. Moreover, there is no time frame for government departments to respond to the Commission's queries or letters even though all government departments and subordinate offices are required "to furnish to the Commission such information and documents as may be required by the Commission from time to time and also render necessary assistance."[128] In practice this does not always work.

Staff complain that government departments do not reply promptly to queries by the Commission -- and sometimes, just do not respond at all. The Commission has followed the usual government guidelines to deal with this situation. If a letter is sent to a government department or a subordinate office, and no reply is received for sixty days, a reminder is sent; the second reminder cannot be sent until another thirty days have elapsed; the third reminder can be sent after another eighteen days. If all this fails to elicit a response, the secretary may send a demi-official letter.[129]

Office Procedure. The Commission's own office procedure is modelled after government departments. This must have seemed to be the most logical and convenient way considering that all its staff are on deputation from different government departments and are used to functioning in a particular way. For example, in straightforward cases -- from the time a complaint is received to the time the first query is sent out to other government departments, there are at least fifteen steps in its office procedure. What is significant is that since the office procedure is a lengthy one, and decision making is slow, people who approach the Commission are often dismayed and discouraged from seeking its help any further. This has a bearing on the public perception and effectiveness of the Commission.

Transparency. Unlike the NHRC, this Commission does not believe in transparency. Thus all it records are out of bounds for members of the public, including journalists and researchers. In fact, the chairman once decreed that no member of the staff could talk to "outsiders" about any aspect of the Commission.

Table 6.1

Cases Brought Before MPHRC, January 1992-August 1993

Category	A	B	C	D	E	F	G	H	I
Minorities	103	272	**375**	59	4	**93**	211	71	**282**
SC/ST/ OBC	97	157	**254**	19	2	**21**	78	155	**233**
Women/ Children	40	172	**212**	15	52	**67**	25	120	**145**
Workers	9	12	**21**	5	6	**11**	4	6	**10**
Police/ Justice	124	47	**171**	30	4	**34**	94	43	**137**
Handi-capped	10	47	**57**	5	15	**20**	5	32	**27**
Other Weaker Sections	21	137	**158**	8	38	**46**	13	99	**112**
Total	404	844	**1248**	171	121	**292**	430	526	**956**

Source: MPHRC, "A Summary of Activities," 1993. In Hindi.

Key to Table:

SC = Scheduled Castes
ST = Scheduled Tribes
OBC = Other Backward Castes
A = Number of complaints relating to human rights
B = Number of complaints relating to other issues
C = Total number of complaints
D = Number of completed cases relating to human rights
E = Number of completed cases relating to other issues
F = Total number of completed cases
G = Number of pending cases relating to human rights
H = Number of pending cases relating to other issues
I = Total number of pending cases

Annual Report. It is required to submit to the government an annual report regarding its activities and recommendations. This report along with action taken by the government is then to be laid on the table of the Legislative Assembly.[130] Though the report for the year 1992-93 was ready before the state assembly elections in November 1993, it was not submitted to the government as the chairman wanted to wait till a new elected government took office.[131] It is noteworthy that this report was written by an "outsider" -- by someone hired specifically to do this work -- as the MPHRC did not have appropriate staff to write its own report.[132]

Activities

The activities of the Commission have been divided into seven categories: 1. Minorities, 2. Scheduled Castes, Scheduled Tribes and Other Backward Castes, 3. Women and Children, 4. Workers, 5. Police and Justice, 6. Handicapped, and 7. Other Weaker Sections.

Complaints received are further classified into two classes: those relating to human rights and those relating to "other issues." Those relating to human rights are cases of ill-treatment, discrimination, torture or death. Those relating to "other issues" are cases of economic deprivation, relating to employment opportunities, or concerning promotion, pension, etc. It might be said that in taking up cases relating to "other issues," the Commission has gone beyond its specific aims. The NHRC, in contrast, treats such cases as "service matters" and refers the petitioner to appropriate authorities for redressal.[133]

In the year 1992-93, the largest number of cases were received from the minorities. This also includes pending cases of the Minorities Commission which were transferred to the MPHRC. However a majority of these cases are related to "other issues." The category, Police and Justice has the largest number of complaints (124 cases) relating to human rights.

There seems to be high incidence of "completed cases" in the year 1992-93. The reason is that its procedure is designed in such a way that cases do not get investigated thoroughly, and in some cases, not at all -- before a case is declared as "completed." For example, in a case of torture in police custody, if the Commission wrote to the district police department, and received a reply, say from the concerned superintendent of police stating simply that no torture had taken place, the case would be treated as "completed."[134]

In a few cases, where the Commission staff, including the chairman and the secretary have gone to investigate the cases themselves -- for example, in the case of the death of Suresh Meena in police custody and the case of Gudda Kosthi who was allegedly tortured in a district jail -- the Commission has not been able to point out the guilty due to non-cooperation of government agencies. In these cases, there is not much the Commission can do. As a staff member said,

> To be very frank, the entire government machinery is engaged in suppressing the facts. If any government official does anything wrong, their work is to hide it, suppress it. The whole machinery is involved in this.

The chairman is seen to be a political lightweight, and therefore cannot use his influence to "get things done." His requests are often ignored by the administration.[135] Additionally, the BJP government was dismissed on 15 December 1992, and there was President's rule in the state till December 1993.[136] The staff of the Commission thus argue that due to this "political vacuum," the Commission still has not had enough time to "mature" or organize itself.[137]

Seminar. A two day seminar on human rights was organized by the Commission on 10-11 December 1993. Three of the speakers were flown in from Delhi at considerable expense.[138] However, the general attendance at the seminar was rather poor -- the usual number being about 20, excluding the period just before and during lunch time, when the number was about 40. As a local activist said, "The Commission is utterly and absolutely useless . . . It merely conducts costly seminars which is attended by the staff of the Commission and their friends. No one else attends it. It is a waste of resources and a useless exercise."[139]

Bhopal Riots. One act of the Commission, however, stands out as a "useful contribution." Communal riots erupted in Bhopal after the partial demolition of Babri Masjid in Ayodhya on 6 December 1992. Though the role of the Commission was that of "a silent witness,"[140] it is nevertheless being given credit for giving "a favourable report" to the governor that law and order had broken down in the state and apparently suggesting that the BJP government should be dismissed.[141] Presumably this facilitated the dismissal of the BJP government in Madhya Pradesh in December 1992. But as BJP governments were dismissed in two other states at the same time, it is impossible to say what difference the Commission's recommendations really made. Some even doubt if these recommendations were not influenced by other factors.[142] Still others, including some rights organizations such as PUCL and APDR have argued that dismissing duly elected state governments was in any case an undemocratic act.[143]

Future of the Commission. The Human Rights Act provides for the creation of state human rights commissions on similar lines as that of the NHRC, though this is not mandatory.[144] By March 1994, the chairman of NHRC had held discussions with the chief minister of Madhya Pradesh, urging him to introduce a bill in the state legislature for the creation of a state human rights commission as envisaged in the Act.[145] Thus it is reasonable to suppose that the existing MPHRC's days are numbered.

Conclusion

Allegations of rights abuse by state agencies like the police, paramilitary forces and the army began to be voiced and highlighted in a systematic way in the 1970s by human rights organizations. The government response has varied in different decades.

In the 1970s, allegations were simply ignored. In the 1980s, the government policy was to deny any allegations of abuse, while not replying to any criticism directly. International organizations like Amnesty were not given access to India, and indigenous organizations began to be branded as "anti-national." In the post-cold war world of the 1990s, and in the face of mounting international pressure, the government adopted another strategy. Firstly, it accepted that abuses took

place, but these were "aberrations," and pointed out that the government took action whenever any incident was brought to its attention. Secondly, it began to focus on abuses by armed opposition groups in Punjab, Kashmir, and the Northeast, and by Marxist-Leninist groups in Bihar and Andhra Pradesh, emphasizing that the police and paramilitary forces were operating in difficult circumstances. Thirdly, even while attacking rights organizations for distorting facts, etc., the government permitted Amnesty to visit India for investigative purposes; and lastly, it constituted the NHRC.

In spite of fears that the establishment of the NHRC is only part of "foreign policy," the process of establishment itself helped raise human rights to a new level of political potency. The NHRC, though initially shunned by other rights organizations, has made efforts to get in touch with them and seek their co-operation. It has held meetings with their representatives, and already found "a lot of common ground."[146] Its work in its first year has undoubtedly made human rights discourse a more "public" one.

The MPHRC, on the other hand has proved to be a failure for it was designed to be so. It was evidently established to do away with the Minorities Commission, and there was no political will to make it an effective body. It is a good example of what human rights organizations should not be.

NOTES

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6. Anonymous Police Officer, Interview with author, New Delhi, 14 February 1994.

7. Vijay Karan, "Third Degree." in *Seminar,* No. 405, May 1993, pp. 44-48.

8. Ved Marwah, "Redefining Roles," in *Hindustan Times Sunday Magazine,* New Delhi, 6 February 1994, p. 4.

9. Karan, op. cit.

10. J. F. Ribeiro, "No Excuse for Police Turning Criminals," in *The Times of India,* New Delhi, 1 February 1994, p. 8.

11. G. Haragopal, "The Koyyur Kidnap: Question of Human Rights." in *Economic and Political Weekly,* vol. 28, no. 49, 4 December 1993, pp. 2650-2655.

12. See for details, Nitin A. Gokhale, "Calling the Shots," in *Sunday,* 6-12 February 1994, pp. 36-37.

13. The position of the Indian government in its own words is this: "With reference to Article 9 of the International Covenant on Civil and Political Rights, the Government of the Republic of India takes the position that the provisions of the Article shall be applied so as to be in consonance with the provisions of the clauses 3 to 7 of Article 22 of the Constitution of India. Further, under the Indian legal system, there is no enforceable right to compensation to persons claiming to be victims of unlawful arrests or detention against the State." Quoted *Violation of Democratic Rights in India,* Bombay: Popular Prakashan, 1986, p. 217.

14. Desai, op. cit, p. 211-217.

15. Amnesty International, *Yearbook*, 1992.

16. It would be fair to add that Amnesty has also criticized the Human Rights Commission in these words: "Politics and not human rights, dictates what happens at the Commission. Time and again members of the Commission put their own perceived economic and strategic interests first and accept without question the excuses of the governments with abysmal human rights records." See "Less Politics and More Human Rights," On the *Internet*, soc.culture.indian., 1 February 1995.

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18. For example, see R. M. Pal, "'Give and Take' in Vienna and the New Word in English Dictionary," in *PUCL Bulletin,* vol. 13, no. 8, August 1993, pp. 24-25.

19. "View Rights Abuses in Context: UK," *Madhya Pradesh Chronicle,* Bhopal, 15 December 1993, p. 6.

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21. See Tania Anand, "US Congress: Let's Bash India," in *India Today,* New Delhi, 15 November 1993, pp. 207-209.

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34. See AI, *India: Torture, Rape and Deaths in Custody,* London: AI, 1992. AI Index: ASA 20/06/92; see also AI, "Press Coverage of Amnesty International's Report: *India: Torture, Rape and Deaths in Custody,* London: AI, October 1992. AI Index: ASA 20/36/92.

35. *The Hindustan Times,* New Delhi, 6 May 1992.

36. AI's position is that the principle of non-intervention is aimed at regulating the conduct of governments "not the conduct of individuals;" that mere accumulation and publication of information can in no way be categorized as "intervention;" and that it considers "the human rights situation in each individual country a proper matter of international concern." See for details, AI, "Amnesty International and the Charge of Interference in the Internal Affairs of States." London: AI, 20 May 1976. MS. 34/4/5/10.

37. *The Hindustan Times,* 25 June 1992; also *The Statesman,* 25 June 1992; *The Hindu,* 26 June 1992. AI, however, claims to follow a policy of seeking meetings with government representatives and submits its reports for comments before publication. See AI, "Amnesty International: Independence and Impartiality." London: AI, 1985, p. 4. Pamphlet. MS. 34/4/5/56.

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59. GOI, *Background Note on Setting up of a National Commission on Human Rights: Issues and Tentative Framework,* New Delhi: Ministry of Home Affairs, 1992, p. 1-2.

60. "Bill to Set Up Human Rights Panel Passed." *The Indian Express,* 19 December 1993, p. 11; also "Lok Sabha Nod for Human Rights Panel," *The Hindu,* Hyderabad, 19 December 1993, p. 4.; "Lok Sabha Passes Bill on Human Rights," *The Pioneer,* New Delhi, 19 December 1993, p. 3.

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62. R. V. Pillai, Interview with author, New Delhi, 16 February 1994.

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65. See, PUDR and PUCL, *Justice Denied: A Critique of the Mishra Commission Report on the Riots in November 1984.* New Delhi: PUDR and PUCL, April 1987.

66. See chapter 2, section 3 (2)(b) of the Bill and section 3(2)(b) to (d) of the Act.

67. See Manoj Mitta, "National Human Rights Commission: A Shackled Watchdog," in *India Today,* 15 Janauray 1994, p. 171.

68. The Bill had envisaged that either the Chairperson or a representative appointed by him could be an *ex-officio* member of the NHRC. See chapter 2, section 3 (2)(c) of the Bill and Section 3(3) the Act.

69. See chapter 2, sections 3, 10(3) and 11(1)(a) of the Bill; and chapter 2, sections 4, 10(3) and 11(1)(a) of the Act.

70. Chapter 2, section 4(1) of the Bill and the Act.

71. Chapter 2, section 5 of the Bill and the Act.

72. PUDR, *The Human Rights Commission: A Critique,* op. cit. p. 7.

73. Chapter 2, section 2(11) of the Bill and the Act.

74. It was estimated that this structure would be in place before the end of 1994. Pillai, interview.

75. Ibid.

76. Chapter 3, section 12 of the Act.

77. Chapter 3, section 12(b) of the Bill and chapter 2, section 12 (c) of the Act.

78. Chapter 8, section 36(1) of the Act.

79. PUDR, *The Human Rights Commission: A Critique,* op. cit., p. 5

80. Chapter 8, section 36(2) of the Act.

81. "Rights Panel to Seek Statute Amendment." *The Times of India,* New Delhi, 15 January 1994, p. 9.

82. Chapter 8, section 42 of the Act.

83. Chapter 3, section 13 of the Act.

84. Chapter 3, section 14 of the Act.

85. Pillai, interview.

86. Chapter 2, section 10(2) of the Act.

87. NHRC, "Notification: National Human Rights Commission (Procedure) Regulations," *The Gazette of India,* New Delhi: NHRC, 26 February 1994, section 18.

88. Ibid.

89. Chapter 4, section 18(1) to (3) of the Act.

90. Chapter 4, section 18(5) of the Act.

91. Chapter 4, section 18(5)(b) of the Bill.

92. Chapter 4, section 19 of the Bill.

93. Chapter 4, Section 19 of the Act.

94. Manoj Mitta, op. cit.

95. Ibid.

96. Chapter 7, sections 32 and 34 of the Act.

97. Chapter 4, section 20 of the Act.

98. "Bill to Set Up Human Rights Panel Passed." *The Indian Express,* Bombay, 19 December 1993, p. 11

99. Pillai, interview.

100. Misra, interview.

101. "Rights Panel to Seek Statute Amendment." *The Times of India,* New Delhi, 15 January 1994, p. 9.

102. "Custodial Deaths to be Reported." *The Hindustan Times,* New Delhi, 16 December 1993, p. 12; also Pillai, interview.

103. "Rights Panel Orders Probe into Murder," *The Times of India,* New Delhi, 4 February 1994, p. 7; also Pillai, interview.

104. Ritu Sarin, "Human Rights Have Come to Stay," in *The Pioneer on Sunday,* New Delhi, 6 February 1994, p. 6.

105. Ibid.; "Parading of Woman: Report Sought," *The Times of India,* New Delhi, 26 January 1994, p. 1; also Pillai, interview;

106. A. N. Sengupta, "A Question of Human Rights." in *India Today,* International edition, 15 February 1995.

107. Ibid.

108. "Deliberation on Teaching Human Rights in Schools," in *Navbharat Times* New Delhi, 3 April 1994, p. 1. In Hindi; "All Indian States to Have Human Rights Courts," On the *Internet,* misc.news.southasia, 3 September 1994.

109. PUDR, *The Human Rights Commission: A Critique,* op. cit., p. 1.

110. Indira Iyengar, Interview with author, Bhopal, 9 December 1993.

111. N. K. Singh, Interview with author, Bhopal, 13 December 1993.

112. Government of Madhya Pradesh. "Resolution No. M.9-12-90-4-I-MC." *Madhya Pradesh Gazette,* Bhopal: General Administration Department, 6 January 1992.

113. Ibid.

114. Khalil Ullah Khan, Interview with author, Bhopal, 7 and 16 December 1993.

115. Ibid.

116. B. L. Jain, Interview with author, Bhopal, 7 December 1993. In Hindi.

117. The BJP government was dismissed in December 1992, and the state was under President's rule till December 1993.

118. Officers in the IAS are the topmost civil servants in the country. Supertime scale refers to a pay grade, which officers usually reach after about 12 years of service.

119. Jain, interview.

120. Ibid.

121. Ibid.

122. MPHRC, "A Summary of Activities," Bhopal: MPHRC, 1993, p. 9. In Hindi,

123. Ibid.

124. Ibid.

125. For example, the secretary of the Commission gets a car from the general pool of state government vehicles.

126. MPHRC. "A Summary of Activities," op. cit., p. 8.

127. Government of Madhya Pradesh, "Resolution," op. cit.

128. Ibid.

129. The purpose of a demi-official letter is to attract the attention of a government department. Any department which receives such a letter is bound to reply within seven or fifteen days of the receipt of such a letter. Jain, interview.

130. Government of Madhya Pradesh, "Resolution," op. cit.

131. Khan, interview.

132. S. N. Chaudhury, Interview with author, Bhopal, 7 December 1993.

133. Pillai, interview.

134. Khan, interview; Jain, interview.

135. Jain, interview.

136. This means that the elected state government was dismissed and the state was administered by the central governmnet through the governor of the state. For all practical purposes, the governor in such cases assumes executive power. For constitutional provisions, see D. D. Basu, *Introduction to the Constitution of India,* 12th edition, New Delhi: Prentice-Hall, 1987, pp. 319-328.

137. Jain, interview.

138. "Intl Human Rights Day Tomorrow" *Madhya Pradesh Chronicle,* Bhopal, 9 December 1993, p. 12.

139. Zuber Ahmed, Interview with author, Bhopal, 7 December 1993. Tape recording.

140. Santullah Siddique, Interview with author, Bhopal, 8 December 1993. Tape recording.

141. Ibid; Iyengar, interview; Zuber Ahmed. interview;

142. It has been alleged that the governor asked for such a report; secondly that the Chairman of MPHRC was under severe pressure from the local Muslim community, including some of his close personal friends, one of whom apparently lost his son in the riots; and thirdly that by this time the Chairman was thinking of joining the Congress party. Siddique, interview; Ahmed, interview.

143. Prabhakar Sinha, "President's Rule: A Threat to Integrity of the Country," in *PUCL Bulletin,* vol. 13, no. 3, March 1993, pp. 6-7; "Dismissal of BJP Government Condemned," in *PUCL Bulletin,* vol. 13, no. 1, January 1993, p. 5; Sujato Bhadra, Interview with author. Calcutta, 23 and 28 November 1993. Tape recording.

144. "Bill to Set Up Human Rights Panel Passed," *The Indian Express,* Bombay, 19 December 1993, p. 11; see also chapter 5, sections 21 to 29 of the Act.

145. Misra, interview.

146. Ranganath Misra, Letter to author, 3 June 1994.

7

Organizations and Issues

The aim of this chapter is to bring together the diverse sets of organizations examined in the previous chapters, in relation to a series of issues which have emerged, issues concerning their nature and future. In doing so, I largely concentrate on the indigenous non-governmental organizations. I begin by classifying organizations according to their historical background and ideological orientation. This is followed by a discussion of the various labels or terms they employ for self-identification: civil liberties, democratic rights and human rights organizations. Section 2 looks at the issue of Naxalite violence, an issue which has caused most divisions within the human rights movement. The main questions addressed are: What is the attitude of rights organizations to Naxalite violence? What are the reasons for such attitude? And what are the implications? Section 3 highlights the major concerns of the organizations, and looks at the related questions of deciding priorities and effectiveness. Section 4 considers the nature of their response and strategy, which includes public meetings, educational programmes, publishing, instituting fact-finding committees, and taking legal action. The final section looks at their material and human resources.

1. Classification of Organizations

Historical Background

There are a large number of diverse human rights organizations in India. A classification according to their origin is useful in understanding their nature. Each organization has developed in a particular historical context -- in response to political situations or movements. Thus organizations have their own particular histories and are, to that extent, distinct both in terms of history and ideology.

Two most significant movements which gave rise to their establishment are the Naxalite movement (1967-72) and the JP movement (1974-75), followed by the Emergency (1975-77). Accordingly, they can be divided into two main groups: a) those arising out of the Naxalite movement, and b) those arising out of the JP movement and the Emergency.

Naxalite Movement. Organizations in this category were, in the first instance, either formed to fight for the political rights of the Naxalites or simply as their "front organizations." The Association for the Protection of Democratic Rights (APDR), Andhra Pradesh Civil Liberties Committee (APCLC) and the Organization for the Protection of Democratic Rights (OPDR) clearly have their origins in the Naxalite movement. These organizations were formed in the pre-Emergency days. Some other organizations also form a part of this category due to their general orientation. These are the All India Federation of Organizations for Democratic Rights (AIFOFDR) and People's Union for Democratic Rights (PUDR). Both these organizations were formally established after the Emergency, yet their main inspiration was not the Emergency but the Naxalite movement. All these organizations are overtly left-wing. Another organization that has not been discussed so far, is the Organization for Civil and Democratic Rights (OCDR) in Tamil Nadu, established in 1976. In fighting for the rights of extreme left-wing activists, it has associated itself with this group of organizations.[1]

JP Movement and Emergency. I am clubbing the JP movement[2] and the Emergency together, as the formation of organizations in this category was influenced as much by the excesses of the Emergency as they were inspired by the contribution of the JP movement and establishment of People's Union for Civil and Democratic Rights (PUCLDR), the first significant all-India rights organization in independent India. Citizens for Democracy (CFD) was formed by Jayaprakash Narayan to "save democracy" just before the Emergency; PUCLDR was established during the Emergency. The Committee for the Protection of Democratic Rights (CPDR) was established immediately after the Emergency as a response to general awareness about human rights issues. The Indian People's Human Rights Commission is concerned about "gross and systematic violation" of rights. This group of organizations emerged out of the popular movements led

by Jayaprakash Narayan and other non-Communist opposition parties. These organizations are liberal in outlook.

Besides the two main categories, some organizations formed after the Emergency, focus on abuse taking place in certain areas. For example, the specific purpose of Nagaland People's Movement for Human Rights (NPMHR) is to highlight army atrocities on the Nagas in Nagaland and surrounding areas. A similar organization exists in Assam.[3] More recently, such organizations can be seen to be active in strife-torn areas of Punjab and Kashmir. The organizations in these areas respond to special the circumstances created by a vast army presence. They seem to form a separate category, and may be said to have been formed in the background of ethnic and sub-nationalistic struggles.

Civil Liberties, Democratic Rights and Human Rights

Another way of classifying organizations is by the terms they use to identify or characterize themselves. The terms are "civil liberties," "democratic rights," and "human rights." It is important to note that activists and leaders of organizations make a distinction between each of these terms. The significance is that each of these terms has developed in a historical-ideological context, and continue to be used with these implications in specific contexts.

Civil Liberties. In the Indian context, this term goes back to the beginning of the century. It became the accepted term for rights activities with the formation of the Indian Civil Liberties Union (ICLU) in 1936. Today, civil liberties are understood as the rights which have been given and guaranteed to an individual by the Indian constitution. These incorporate such basic rights as the right to life and equality, and freedom of speech and expression. These rights have been codified in the chapter on Fundamental Rights in the constution, and are justiciable.[4] They also correspond to civil and political rights of the Universal Declaration of Human Rights, or those enshrined in the International Covenant on Civil and Political Rights.

Organizations which are seen to focus on issues relating to this category of rights are termed "civil liberties organizations." The People's Union for Civil Liberties (PUCL) can be seen as an example -- though it must be pointed out that it also addresses questions relating to democratic rights. It must be noted that "civil liberties" appearing in the name of an organization does not necessarily mean that it is a "civil liberties organization." The APCLC, for example, is quite definitely a democratic rights organization.

Democratic Rights. This term is of recent origin and gained currency in India in the late 1960s in the context of left-wing supported or led movements. Democratic rights correspond more to economic, social, and cultural rights, such as a right to employment, education, etc. These rights have been codified in the Indian constitution in the chapter on Directive Principles of State Policy, but unlike fundamental rights are not justiciable or enforceable through a court of law.[5] These also correspond to the International Covenant on Economic, Social and Cultural Rights. As Adzic notes, democratic rights, in the Indian context, "cover a very broad spectrum of rights, including rights associated with development and environment. They do, in many instances, involve intrinsically political questions, and any organization focussing heavily on range of democratic rights would in effect be espousing a particular political view."[6]

AIFOFDR is an example of a democratic rights organization. As mentioned earlier (in chapter 4.6) its Declaration does in fact espouse a rather specific political view. It states that rights abuses in India stem from the fundamental conflict between the ruling classes and the exploited masses. The state is depicted as the agent of the ruling classes, and all efforts by the state to alleviate poverty and exploitation are viewed as a form of deception. When people realize this deception and struggle for improving their lot, the state lets loose repression upon them. The Declaration holds that throughout history people have won their rights only through their own struggles and organization, and that people must be mobilized to promote, assert and defend their democratic rights. Thus the right to struggle is the most fundamental democratic right. All other rights stem from this and are secondary.[7] AIFOFDR and other democratic rights organizations thus do not have much faith in the constitutionally guaranteed rights or the legal system of the country.[8] They believe that a "radical transformation" of the society is

required to guarantee rights to everybody, but specially the underprivileged and the exploited. Democratic rights activists also object to the term "liberties" and prefer the term "rights." They emphasize that rights have always been won after bitter struggles and it is not correct to talk of "liberties," as they feel it implies a "gift "[9]

Human Rights. This term is often associated with the West, its liberal democratic tradition and individualism, which makes it an undesirable term for some activists. It is also associated with the Universal Declaration of Human Rights and the two international covenants, and is seen as encompassing both civil and political rights as well as economic, social and cultural rights. Among the organizations, especially the democratic rights organizations, there is some reluctance to apply this term. PUDR is one such example, which believes that the term considerably dilutes the required focus. As its spokesperson said,

> The term (human rights) is defined in a fashion that everything becomes human rights . . . If somebody slaps me, my human rights are violated. If you define rights at that level, then it becomes so general as to lose all significance.[10]

However, the term is gradually being accepted now. APDR, sees itself primarily as a democratic rights organization, but raises no objection to its being called a human rights organization. CFD see its work as covering a broad area and describes itself as a human rights organization. Similarly, Peoples Rights Organization (PRO), formed in 1986, is comfortable with this term. PUCL puts emphasis on civil liberties, and its advisor, Tarkunde, insists it is a civil liberties organization (in order to distinguish it from CFD). Nevertheless some PUCL official documents describe it as a human rights organization. The first organization to adopt this term was the NPMHR. A possible reason could be that it was oriented internationally, and sought support from abroad for its cause.

Though organizations emphasize different terms, it might be argued that it is not the self-identifying terms that distinguish the organizations so much as their attitudes towards issues. There is agreement or near agreement on most issues, except that of Naxalite violence. This is the subject of the next section.

2. Naxalite Violence

Naxalite violence is often described as private violence by activists. Private violence itself can be defined as that violence which is not committed by the state or any of its agencies, but by private individuals. There are, of course, different kinds of private violence: violence based on gender within the family, caste violence against those of the lower castes or vice-versa, communal violence based on religion, sub-nationalistic or separatist violence based on ethnic identities and so on. On these various kinds of private violence, there is agreement that these are not acceptable. But when it comes to violence committed by armed political groups, or more specifically, Naxalite violence, the situation is different. While most organizations have now agreed to treat incidents of private violations as rights issues, it is violence committed by the Naxalites that has been debated over the years without any conclusion. It must be made clear that "terrorist violence" is condemned by all organizations, at least in the last three or four years.

Organizations tend to make a distinction between two kinds of Naxalite violence: the killing of innocent people, say, when a coach or train is blown up, which is condemned, and other kind of violence where Naxalites kill persons they consider their "enemies." The second kind of violence is seen as being more complex and is the cause of a debate. Thus, even though the debate surrounds one particular kind of Naxalite violence, activists tend to use the term "private violence" for it. For the sake of precision, I will use the term "Naxalite violence" in discussing the debate.

The dilemma revolves around this question: What attitude should be taken about Naxalite violence? There are basically two views among the organizations. The first view is that violence is an unacceptable form of protest and therefore should be condemned irrespective of the source. This is to a large extent a general moral position peppered with practical reasons.[11] The second view is that criticizing Naxalite violence should not be a concern of rights organizations. Their function is to highlight state violence, for it is the most brutal form of repression (see Table 7.1).

Table 7. 1

Attitude Towards Naxalite Violence

Condemn All Kinds of Violence	**Do Not Condemn Naxalite Violence**
CFD	PUDR
PUCL	AIFOFDR
PRO	APDR
	APCLC
	OPDR

In the first category there are organizations that condemn all forms of violence. These organizations -- especially CFD and PUCL -- were first established to fight authoritarian tendencies in the Indian polity, and by and large follow Gandhian modes of peaceful and non-violent protest. CFD is strongly opposed to any form of violence; it believes that "those who resort to violence, even for an apparently good cause, endanger the whole democratic process," and has appealed to extremists and "those revolutionaries who adopt violent means for social transformation, to realize . . . that their ideals cannot be attained except by peaceful means."[12] PUCL is closely associated with CFD. There are also a large number of members who belong to both the organizations, with the crucial difference that PUCL has certain units which at times, if given a free hand, would rather not condemn Naxalite violence. Thus, whereas in CFD there has never been a need for a debate, PUCL has had to debate the issue. In its national convention in 1982 it declared that "violence even for laudable objectives will legitimize counter-violence by the state and other groups." It believes in utilizing the available agencies and methods which are available in an open society, and believes in peaceful transformation of society.[13] PRO, too, has a clear policy

regarding violence of any kind. It condemns violent action any group, especially the killing of innocent people. In this way, it sees itself as being different from some other organizations[14] that do not condemn Naxalite violence and form, as it were, the other half of the human rights movement in India.

Among the organizations that do not condemn Naxalite violence are the APCLC, AIFOFDR and PUDR. It is important to understand the reasons why these organizations do not and will not condemn such violence. The reasons are historical, ideological and practical.

Historical: Links with the Naxalite Movement

APDR was formed largely by people who had been associated with the Naxalite movement. Some of them, including Subhash Ganguly, a founder, had also been imprisoned for Naxalite activities. Its main work in the initial period was to call for the release of political prisoners. There was a separate Legal Aid Committee which was very close to the Naxalites, and APDR worked closely with them. The Naxalites wanted its full and active support.[15] In Andhra Pradesh, APCLC and OPDR were formed directly by Marxist-Leninist (ML) party leaders on the simple understanding that "it would be a part of the broad revolutionary movement."[16] Thus, in the early days these organizations were very much a part of the ML movement. They were not independent or autonomous, but were undoubtedly acting as a front for the ML parties to a certain extent. "OPDR was slightly more than that": it was not unusual for ML party members to direct its activities.[17]

AIFOFDR's approach to issues and proximity to ML organizations puts it firmly in the category of organizations which do not condemn Naxalite violence. There is also the PUDR which, like AIFOFDR, is led, controlled and dominated by "committed Marxists." In the past, some of the founders and leading members were part of the underground Naxalite movement.

It is not merely the fact that these organizations were established to highlight repression against the Naxalite movement. Many of the founders had links with it and were actively associated with the movement. They dominated these

organizations by holding important organizational positions, like that of general secretary. Till the mid-1980s, APDR, APCLC and PUDR had general secretaries who had been actively associated with ML politics. Debasish Bhattacharya was one of its very active members and helped build APDR. He was associated with APDR from 1972, and was its general secretary from 1979 to 1987.[18] The general secretary of APCLC during 1978-84 was B. Pradeep who belonged to an ML group.[19] Similarly, PUDR had Sumanta Banerjee as its general secretary in the early 1980s. All of them were actively associated with Naxalite activities.[20]

Though these organizations apparently do not have any formal links with Naxalites now, the system of recruitment of members ensures that only those with "left leanings" are entrusted with any responsibility. About 95 per cent of members of APCLC can be said to have an ML outlook, having either been initiated in the students movements or in actual ML politics.[21]

Ideological: Emphasis on Democratic Rights

The organizations which classify themselves as democratic rights organizations see movements like the Naxalites as arising from socio-economic conditions. They believe that until and unless those conditions are changed, it is impossible to look at the question of Naxalite violence in isolation.[22] AIFOFDR declaration makes it clear that "the right to struggle" is more important than "social peace."[23] It supports what it calls "democratic organizations . . . of rural poor," "peasant organizations," and "legitimate peasant movement" like the Mazdoor Kisan Sangram Sangathan (MKSS) and Maoist Communist Centre (MCC). These organizations believe in violence, and would not find support from organizations like the PUCL. While organizations like the PUCL and CFD try to follow the Gandhian path, AIFOFDR's models are militant nationalist leaders, such as Bhagat Singh, who in the days of British rule protested against preventive detention and other legislations by throwing bombs in the Central Legislative Assembly.[24]

A further aspect of "caste violence" has recently been added to the debate on Naxalite violence. Until very recently, rights issues were not seen from a caste

perspective. Now the rights of the lower castes (dalits) are being looked at differently: they are seen to have a "right to struggle" against their oppressors, the upper caste elites. In a recent convention of APCLC in December 1993 it was decided that it will not condemn attacks on upper castes. It has also approached the ML groups with the request not to kill lower caste "police informers" who either sell their labour for survival or are forced to do so.[25]

Practical Reasons: Organization and Membership

Another reason why these organizations do not consider or take notice of Naxalite violence is due to practical reasons. PUDR for example says that they are a very small organization and do not have enough resources to take up such issues. Law and order machinery already exists to take care of incidents of Naxalite violence. Additionally, state violence is a more important issue.

Secondly, the views of the members have to be considered while framing organizational policies. In APCLC, for example, the question of Naxalite violence has been debated from the early 1980s. When these debates take place, usually in their annual conferences, they last for eight to ten hours. In December 1993, the matter was debated for almost 30 hours. As this question has never been resolved to the satisfaction of all, it is raised time and again.[26]

In the December 1993 conference "leaders wanted to make it (APCLC) autonomous and protest against private (Naxalite) violence in some form, not as they protest against state violence, but the majority is opposed to this."[27] The membership rejected the leadership's proposal to condemn Naxalite violence as they had rejected it a year earlier in 1992. Then the proposal by the central executive committee was rejected by most district units by an overwhelming majority. The conference also condemned the central executive committee for trying to bring in this policy through the backdoor.[28]

The 1993 conference took a decision that there are two kinds of violence:[29] The first kind where violence is directed towards common property, such as government buses, railways, and post offices. Its destruction leads to suffering of

all, but as this kind of violence is committed by all political parties as a form of protest, and as this practice very common and nobody can stop it, when it happens APCLC will not take any notice. The second kind relates to cases of individual violence, that is, killing or kidnapping of informers (who are usually from the lower castes). In this case, APCLC will condemn it.

The question of Naxalite violence has various implications for the human rights movement. These can be discussed under four heads: lack of autonomy, legitimacy with police and government, problems within organizations, and a united human rights movement.

Lack of Autonomy. The first implication is that rights organizations cannot justifiably claim to be autonomous if they persist with their ML links. Though there is an effort to change the image of organizations by gradually removing persons with specific affiliations from organizational positions, this is still in process. APDR, for example, had to dismiss one of its branches which had been dominated by Naxalites, and where one of its members was directly involved in a killing.[30]

Their links with Naxalites does them no good as far as legitimacy with the government is concerned -- also with sections of the people, especially those not sympathetic to the Naxalites. Rights organizations must be seen to be independent and impartial. But identified as they are with ML groups, this has an effect on their credibility and influence -- not only when they highlight repression on political movements, but also on important aspects of state violence. It is not surprising then that this aspect is often exploited by the government to discredit their work.

Police and Government. The impression of these organizations as Naxalite organizations is enhanced by government propaganda. They are called "so-called human rights organizations," "front organizations," "friends of the terrorists," etc. In 1993 the director general of police of Andhra Pradesh threatened "to wipe out" rights activits as "they were becoming a threat to society."[31] Similar threats in the past have been carried out. At least three APCLC activists have been allegedly killed by the police. These killings take place immediately after a prominent or a

notorious person has been killed by the Naxalites. By killing APCLC activists the police were trying to show a relationship between the two groups,[32] reinforcing the view that organizations like the APCLC are front organizations of the Naxalites.

On other occasions, the government has sought the help of APCLC in getting senior civil servants and legislators released when they were kidnapped by the Naxalites. (On one occasion eight civil servants were kidnapped, and on two occasions legislators were kidnapped.) Even though APCLC assists the government, this nonetheless reinforces the perception that they have close links with the ML parties. In an interesting turn of events Balagopal, the general secretary of APCLC was allegedly kidnapped by the police. He was set free only after some policemen, who were being held as hostages, were released by the Naxalites.

These happenings, especially the killing of activists, has convinced the leadership that for the personal well-being of the activists and for day-to-day functioning it is better to distance the organization from the Naxalites. They do not want to be seen as front organizations and as natural targets if a policeman is killed. In the case of APCLC, the shift in the position of its leadership can be attributed to two other factors. Firstly, some members who were earlier against condemning Naxalite violence have now changed their position as they feel that this could be their best bet against being killed by policemen. Secondly, the ML movement in Andhra Pradesh today is largely in the hands of Peoples War Group (PWG) as other ML groups appear to have reduced the scope of their activities. It seems that a large number of leaders and activists do not sympathize with the more extreme politics and policies of PWG.[33]

Problems Within Organizations. This issue of Naxalite violence has the potential of causing divisions within each of the organizations and has consequences for their effectiveness. The leadership and membership are divided on this issue in APCLC: the leadership now seems to be convinced that it is best to distance the organization from the Naxalites, and the membership is against this as it appears to them to be a matter of trying to prove the organization's credentials to the police and the government.[34] APDR has expelled members and disbanded a unit taken

over by Naxalites; some of the members were also allegedly responsible for a killing. Though some organizations tacitly support Naxalite violence, they do not have their own members involved in killings. PUCL has had problems in spite of its constitution, which lays down the policy very clearly. In an incident in central Bihar eight people were sentenced to death for two killings. As various organizations demanded their unconditional release, there was pressure on the Bihar unit of PUCL to do so as well. If they had polled the members, there would have been support for unconditional release.[35] In West Bengal, the PUCL branch is an example where some members have constituted themselves as the Legal Cell of the branch and are specializing in taking up Naxalite cases. These situations obviously threaten the unity and effective running of organizations.

United Movement. A clear division exists between organizations on the issue of Naxalite violence. Those which have emerged from or have links with the ML movement do not condemn Naxalite violence. This position is in contrast to organizations such as the PUCL, which concerns itself not only with the rights of the "oppressed" but of everybody, including policemen.[36] Indeed PUCL has not only brought out reports condemning Naxalites for in-fighting and wrongful killings; it also surprised many, including women's organizations, when in a report on alleged rape it came to the conclusion that no rape had taken place and false allegations had been made against the policemen.[37]

If the human rights movement in India is to become truly an all-India one, organizations now supporting ML parties will have to rethink their positions.[38] However, in spite of differences, organizations do try and work together on certain issues and cases -- even if at times this means little more than to "put up a common front in front of the people."[39]

3. Organizational Activities

An examination of organizational activities reflects not only on the general human rights situation, but also sheds some light on the organizations themselves. Many of the organizations were established for the specific purpose of highlighting repression on political prisoners. In the case of APDR and APCLC, these were

Naxalites; in the case of PUCL, it was a range of political leaders from different opposition parties. The concern with political prisoners continues, but the emphasis has now shifted to other matters, and they have gradually taken up a wider role. They continue to monitor the situation of political prisoners, but are now also concerned with other issues.

Their main concerns fall in the area of civil and political rights, where state agencies are the main violators; concern with democratic rights issues are secondary to civil liberties issues. This is true of all organizations, but especially of the organizations which describe themselves as democratic rights organizations. Their primary role is to identify, investigate and expose cases of state violations.

Encounter deaths is one of their main concerns. These are officially explained as "encounters" between the police and armed individuals. The organizations maintain that these are "cold-blooded murders."[40] Traditionally the main targets have been political dissenters, like the Naxalites. In cases where political pressure has been applied to show results, reports show that the rural poor have been killed by the police in fake encounters. In the last ten years, Punjab and to some extent Kashmir, have been the areas most vulnerable to such killings. Alleged Naxalites, extremists or terrorists are the main victims. Organizations explain that these are political murders which can be brought under control by political will.[41] A PUCL report showed that "official policy dictated these killings." It further noted that it had become a way of life in Uttar Pradesh. "The police have exterminated alleged thieves, petty criminals, bandits and above all innocent people."[42]

From the mid-1980s onwards, organizations have also focussed on torture, rape and custodial deaths. They point out that torture and custody death victims come largely from the rural poor, besides those belonging to the lower castes and tribes. In a survey of 45 custodial deaths, Shourie, a founder of PUCL has concluded that "the victims are invariably poor." He goes on to say:

> You can decide for yourself whether this is so because the well-to-do do not commit crime in India; or, if they do, because they are not hauled in; or, if they are hauled in, because they are not interrogated vigorously (and in that too whether this is because they confess more readily or because the police feel that vigour in such cases is liable to become public knowledge);

> or finally, if they too are questioned just as vigorously as the poor, it is just that they are a hardier lot and can survive torture more cheerfully. In any event, the custody -- literally the "guardianship", "care", "safe-keeping" -- of the police is fatal only for the poor.[43]

Organizations are also concerned about social justice issues like those pertaining to caste-motivated assaults -- and in fact, any issue that threatens the life of individuals or groups. Thus OPDR took up and highlighted cases of starvation deaths due to drought in Andhra Pradesh. Since 1984, organizations have also been concerned about environmental issues, focussing on any threat to livelihood. Another issue that engages their attention is that of religious communalism. Here the concern is ineffective deployment of the police or paramilitary forces, and sometimes their implication in communal riots. They also take up issues related to official corruption, electoral practices, and parliamentary democratic practices.

In taking up women's issues, the focus is on cases of rape, victimization within the family, including dowry deaths -- but not such issues as equal opportunities or equal rights for women, which are left in the hands of specialized women's groups. Similarly, most organizations are concerned about workers rights -- but they normally do not intervene unless there is a direct attack on workers; they are careful not to become involved in cases which may be described as "trade union matters," relating to working conditions, etc. However, the exploitation of the workforce in the unorganized sector remains their concern. Two substantive areas that they have not ventured into are cases of bonded labour[44] and child labour.[45] These issues are taken up by specialized organizations.

Considering that organizations today address a wide range of issues, the question arises: How are organizational priorities decided? There seems to be no apparent hard and fast rule or criterion for deciding priorities, except that in cases of immediate threat to life of a person, the case would receive immediate attention. In other cases, it largely depends on whether the case is brought to the notice of the organization or not; thereafter it depends on its merits as perceived by the organization. The standard practice is that the activists and leaders make it a point not to turn anyone away who has come seeking help of any kind; the principle is "not to disappoint anyone." Thus if a student complains about poor laboratory facilities in a college, an office bearer of an organization might go and have a

word with the college principal. Organizations are also approached by pensioners to have their pensions released from banks; most organizations would make a representation on that person's behalf. Thus, the scope of activity is not strictly defined.

An inevitable question is: Have the organizations taken on too much? Is their focus too diverse? This situation may be contrasted to the position of Amnesty International, which takes up only those cases which fall within its mandate; it "concentrates on its own defined area in order to be as effective as possible and to put its limited resources to the most efficient use."[46] It argues that this is one of the reasons of its success: "The simple fact is that no organization can cope effectively with all the violations of human rights."[47] Thus, for example, its mandate does not extend to killings that are not attributable to governmental policy, such as killings of demonstrators or rioters resulting from excessive use of force by security forces.[48] Another example is undertaking mediation work. Amnesty does not negotiate either with governments or with those in opposition.[49] Indian organizations, on the other hand, are very concerned about deaths resulting from excessive police firing, and will undertake mediation work in the belief that they must do whatever is in their power to remedy a given situation. This approach gives them great flexibility in their work. The evidence of their functioning suggests that in spite of the expansion of their agenda, they have not become ineffective.

4. Response and Strategy

The organizations draw upon an elaborate culture of protest that exists in India. The strategies adopted by them to highlight or protest rights abuse are varied, but essentially they are to mobilize public opinion. Some of the methods used are: holding public meetings and seminars, undertaking educational programmes, conducting or sponsoring cultural programmes, publishing and distributing literature, including reports and journals, and issuing press releases. In some cases, organizations also resort to legal action.

Public Meetings. These are open to anyone who wishes to attend. It is usual to set aside one day of an organization's annual meeting (national or state convention) as an "open-day," when non-members are invited to attend and participate in the proceedings. Separate public meetings are also held at different times for various reasons: at the time of setting up a new branch; to discuss a specific or local issue; to discuss issues of wider or general nature; or to seek support for an intended campaign. Public meetings are not always elaborate affairs. These might even be held without notice on street corners. This strategy was used effectively by APDR, especially in its earlier days to highlight incidents of police repression in and around Calcutta.

These can also take the form of seminars, workshops or conventions. Again, these might be either held on specific issues of contemporary relevance, or be of a general nature. It is usual for academics to be invited as participants or main speakers to seminars or workshops. Conventions may last for one or more days; it is usual to invite leaders of all "fraternal organizations" from all over the country for any convention. One of the most successful conventions was organized by PRO to discuss the setting up of the National Human Rights Commission (NHRC) in Delhi on 5 December 1993. Public meetings are held frequently. Organizations in Andhra Pradesh -- APCLC and OPDR -- have held 320 public meetings in 13 years (1979-1991), or one meeting every fortnight.[50]

Cultural and Educational Programmes. The purpose of educative efforts is to "disseminate facts to the people," and create consciousness about rights. This is done through publishing booklets (which are sometimes titled *Know Your Rights*) in local languages. Within organizations, members learn about rights issues by attending meetings and participating in activities. A recent trend is to hold workshops and seminars for members and activists. APCLC has also started holding induction classes for new members in order to sensitize them to issues that they would invariably confront as rights activists.

Organizing or sponsoring cultural events might be seen as a part of the educative effort. Sometimes these take the form of street plays. The themes of such plays usually deal with rights issues such as torture in police custody or social issues such as dowry deaths. They are either organized by the organizations themselves

or by "fraternal organizations" as is the case in APCLC. Here, the Jana Natya Mandali (People's Theatre Group), the cultural wing of the Naxalites, is responsible for organizing street plays and other cultural events. APCLC meetings also begin by group singing of *ghadhar* (revolutionary) songs. While group songs help to bring together the activists, performance of street plays (often by members of the local community) is an effective method of educating people, especially in the rural or semi-urban areas, about rights issues.

Publications. Publications are of different kinds and serve different purposes. Leaflets or handbills are the cheapest way to announce certain programmes in advance, or to highlight a particular incident. Reports are of two kinds: one which involves pure research and is on a particular theme or issue, such as a critique of the provisions in the Terrorist and Disruptive Activities (Prevention) Act (TADA); or they can be reports of fact-finding committees, relating to incidents. These reports are usually in a cyclostyled format, but the recent trend is to publish them as booklets. PUDR publishes all its reports (including short ones of four pages), in a booklet form. The number of copies of each report usually does not exceed one thousand.

These are distributed informally among members of the organization, and sold at very low prices in university campuses. Each organization also sends some copies to other organizations across the country -- which might be circulated among their members. So far, these reports are not available in bookstores. In Andhra Pradesh, until recently, it was not unusual for members to be secretive about possessing a copy of an APCLC publication in order not be harassed by the police.

Journals. Journals perform two very important functions: firstly, they form an important link between members of an organization, especially in the larger ones like PUCL and AIFOFDR, which have branches or affiliated organizations all over the country. Secondly, they disseminate ideas and reports not only to the members and sympathizers, but to all those who have an interest in human rights. In addition, they are also an invaluable source of record of organizational activities. The contents of these journals consist of general or special articles on rights issues, reports of incidents of abuse, summaries of fact-finding committees or other reports, and some indication of organizational activities.

Table 7.2

Human Rights Journals

Organization	Journal	Frequency	Language	Year
AIFOFDR	*In Defence of Democratic Rights*[1]	Monthly	English	1984
APCLC	*Swechcha*	Monthly	Telugu	1984
APDR	*Ganatantrik Adhikar*	Bi-monthly	Bengali	1977
APDR	*APDR News*	Occasional	English	1972
CPDR	*Adhikar Raksha*[2]	Quarterly	English	1977
PUCL	*PUCL Bulletin*	Monthly	English	1981
PUCL (AP))	*Jana Ganam Gontuka*[3]	Bi-monthly	Telugu	1984
AFDR	*Jamuri Adhikar*	Occasional	Punjabi	1978
LHS	*Lok Hakk*[4]	Monthly	Marathi	1978
OPDR	*Voice of OPDR*	Monthly	English	1984
OPDR (AP)	*Janapadham*[5]	Fortnightly	Telugu	1982

Notes

Year = Year of first publication.

(1). *In Defence of Democratic Rights (IDDR)* was started as *Democratic Rights* in September-October 1984 as a bi-monthly; in July-August 1986 it changed its name to *IDDR*; it became a monthly from August 1993. (2). *Adhikar Raksha* stopped publication in 1989; efforts are on to revive it. (3). *Jana Ganam Gontuka* has ceased publication due to financial and manpower problems. (4). *Lok Hakk* stopped being published in 1981 after an attack on its office, and subsequent resignation of its editor. (5). *Janapadam* is published jointly with Democratic Students Organization, a radical, left wing organization.

Most of the organizations publish a journal. PUDR and PRO are exceptions -- but PUDR publishes a large volume of material on a regular basis, and PRO's activities are covered in *University News,* published by one of its members. It is noteworthy that except for *APDR News* all other journals were started in the post-Emergency period. Financing the publication of journals is usually not a major problem -- not as much as finding dedicated volunteers to oversee the production. These journals are usually very low priced.

Besides the journals listed in table 7.2, IPHRC also published a newsletter in its initial year, but this effort was not sustained. There are some other journals which focus on rights issues, and are published by individuals. One such example is *Human Rights Worldwide,* an English monthly published by Ajit S. Gopal from Delhi. Some other journals, though not devoted entirely to rights issues are considered by rights organizations as "friendly journals." Examples are *Sanketan,* a journal for grassroots organizations and issues in Andhra Pradesh, and *Frontier* in Calcutta.

There have been efforts in the past to have an all-India journal, representing all the rights organizations. But this proposal could not be carried through because each organization wants to retain its own voice and identity. In any case, most journals carry news of other fraternal organizations as well.

Fact Finding Committees

Before any report can be published, allegations of abuse have to be investigated. This is done through fact-finding committees (FFCs). "Fact-finding is at the heart of human rights activity," says B. G. Ramcharan. He adds that "the only way to assess whether internationally recognized rights have been duly observed or whether and to what extent they have been violated, is to investigate the factual circumstances of a specific situation."[51]

Fact-finding committees may be formed for various reasons,[52] but usually they have a narrow scope -- to collect information surrounding a specific case or

incident. Their primary task is to establish the "facts" of any given situation. In the Indian context, as most violations dealt with by the organizations are by state agencies or with their complicity in some form or other, the task inevitably entails counter-checking claims of the state agencies, and very often refuting the government or the police version of an incident.

In post-independent India, the best known of the fact-finding committees is the Tarkunde Committee, established in 1977 (see chapter 4.2). Since then such committees have been instituted very frequently.

> In total, APCLC and OPDR together appointed 561 FFCs in the post-Emergency period . . . Between 1979 and 1991 APCLC appointed 466 FFCs on various issues, i.e., 36 committees per year and one in every 10 days. Since 1983, i.e., since Balagopal has become its General Secretary, 441 FFCs have been appointed, in other words an inquiry every week.[53]

While all organizations institute fact-finding committees, one organization, the IPHRC is solely dedicated to constituting such committees in cases of "gross and systematic violations" of human rights.

Current Practice and Procedure. The procedure for setting up a fact-finding committee is not closely defined. Even though PUCL has laid down some guidelines, there is no evidence that they are closely followed. Committees are constituted usually by a single organization if an incident occurs in an area that is clearly within its geographical domain. Thus if an incident occurs in West Bengal, APDR would constitute a committee. However, joint committees are constituted by two or more organizations in two situations: a) If an incident occurs outside the domain of a particular organization -- for example, if an incident occurs in Madhya Pradesh, APCLC and CPDR (and other organizations) might together constitute a committee. b) If a case assumes "national importance," then even if the case was in West Bengal, APDR might consider it appropriate to invite other organizations to be a part of a committee. This conscious effort to keep to one's "territory" avoids duplication or unintended overlap of work by different organizations -- though several of them might send their own teams to investigate a particular incident at different times. The Arwal case (described in chapter 4.5) is an example, where three different organizations sent their teams.

These committees usually do not usually have any agreed terms of reference. It is understood by the members that the "facts" of a case have to be established. Investigations may last for two to seven days. The emphasis is on meeting the victims, members of their families, local people who might have some knowledge of the incident, as well as members of the civil and police administration in the area.

The teams are at times rather small, with as few as two members. They are usually activists who have been with an organization for a considerable period of time, although this depends on who is available and willing to travel. In significant or joint committees, a prominent public figure might be invited to be a part of the team.[54]

The entire expense of any committee is borne by individual members, not by the organization that sends them. Only in one case, CPDR is known to have paid the train fare of one member due to that person's personal circumstances at that time.[55] Team members usually rely on the hospitality of friends, relatives or local activists to keep costs at a minimum. This means that those who cannot afford travel expenses would not volunteer. However, most of the activists seem to be able to afford this expense.

Standardization. As fact-finding committee reports are gradually being taken seriously by policy makers and governments, there has been a move, particularly by international and intergovernmental organizations to formulate procedures for standardization of such activity. There is growing feeling among rights commentators that there is a need to develop procedural guidelines for conducting fact-finding investigations.

> In order to inspire corrective efforts by governments, human rights organizations must demonstrate that their statements are true and thus constitute a reliable basis for remedial governmental policy. Human rights organizations -- as with any finder of fact -- must pursue reliability through the use of generally accepted procedures and by establishing a reputation for fairness and impartiality.[56]

Fact-finding missions have to be seen to be convincing as well as credible. But on the other hand, there is also a vital need for flexibility. Weissbrodt questions the extent to which intergovernmental standards can be expected to be applied to other organizations. He argues that rules for different categories must not be the same, and calls for a balance of needs and flexibility.[57] Missions appointed by Indian organizations continue to be marked by informal procedure. Moreover, there is as yet no visible concern or appreciation for the standardization of procedures in India.

Reports. These are an inevitable outcome of investigations. The contents of reports are usually discussed in a meeting before being written by one or two of the team members. These reports, published in the form of booklets, are then circulated among the members of the organization, sent to other organizations, distributed among the press, and also published in a summary form in the organization's journal.

Mobilization Programmes. The "mobilization programmes" of the human rights organizations do not seek to bring together affected groups, as is the case in other "new social movements," like the dalits, women's, farmers' and environmental movements.[58] The emphasis is on building up public opinion and pressurising the state authorities to respond to the situation.

Some forms of mobilization are either not used at all, or are rarely used. Holding *dharnas* (sit-ins), demonstrations or processions has become rare. Poster campaigns are virtually non-existent. Letter writing is not considered an effective strategy by the Indian organizations, though this continues to be used by Amnesty International. Usually there is no direct effort to lobby the government, to make direct contact with government officials or ministers to influence policy. All efforts are made while keeping the government at a distance, for no organization wants to be seen (even mistakenly) to be having a "cosy relationship" with the government.

Legal Action. In addition to the mobilization programmes, organizations are forced to take legal action in some cases -- in spite of the fact that leaders of some organizations (such as AIFOFDR) have little faith in the judicial system of the

country. There are three kinds of legal programmes: evoking the courts on behalf of those whose rights have been affected; demanding judicial enquiries in all cases of torture, custodial or encounter deaths, and participating in such enquiries; and providing legal aid to political prisoners, and other undertrial prisoners arrested under laws such as TADA.

5. Structure and Infrastructure

All organizations have a formal manifesto or declaration of aims and objectives, and very often a written constitution which lays down in considerable detail rules about membership, composition and election of office bearers and their duties and functions. However, in actual practice, their structure and functioning is highly informal. This section discusses both the material and human resources available to them.

Office Establishment. CFD and APDR have offices, but the other organizations do not. They designate the house of one of the office bearers as an "office." This is then used as the postal address. The advantage of such an informal practice is that there is virtually no office expenditure, but there are two major disadvantages. Firstly, an office would provide a regular meeting place, as it does in the case of APDR. Thus meetings are held in cafes, other public places or in someone's house or office -- which is not always convenient. For example, until 1992, Bombay PUCL used to have fortnightly meetings; but this is not possible any more with the death of two senior leaders in whose houses meetings were held.[59] Secondly, an office would also be a place to keep documents and records. In the current situation, these are not kept in one place, but in the houses of different members or activists --in spite of there usually being a designated office. Records are often moved from one place to another, especially with any change of leadership. Vital documents are sometimes lost in this process. The importance of organizational documents and records is often not appreciated. One reason is that the organizations and activists are far too busy with real and immediate situations to bother about this seemingly trivial matter of keeping records, which does not contribute to their programmes at least in the short-term.

Secretarial Assistance. In the absence of an "office" any secretarial assistance is non-existent. This also means that in most cases, they do not have essential office equipment like typewriters or telephones. All work is carried out by volunteers, or by the office-bearers themselves. In PUCL, for example, Y. P. Chibbar, the general secretary has to do most of the secretarial work, including running small errands like going to the post office or the bank. These errands take up a lot of time, which could be utilized by such persons to concentrate on other organizational matters. In the absence of an office system, when activists or members volunteer to help, they often have to incur petty expenses themselves, such as paying for postage stamps or local travel. Thus, organizations might not write or reply to letters which do not appear to be of immediate importance. One of the letters that went unanswered by APDR was an invitation to attend the 1993 World Conference on Human Rights in Vienna. APDR members wrongly assumed that travel expenses would have to be borne by the delegates, and did not bother to reply to the invitation and thus missed an opportunity to attend an important conference.

Funds. The financial expenditure is generally rather marginal. The highest expenditure (approximately Rs. 3000 per month) is incurred by the CFD, which maintains an office and has a paid staff. APDR, too, has an office, but there are no paid employees. PRO, on the other hand, manages on about Rs. 1500 per year. All organizations (except NPMHR) have a membership fee, but this is a small amount and organizations do not always insist that it be paid. Regular donations made by activists and sympathizers are the most important source of income. The amount that can be collected depends on how well a branch or unit is organized. Donations are also sought from sympathizers for specific programmes. Organizations are sceptical of depending on a single source of income and as a general rule, avoid taking large sums as donations. No organization accepts any money from abroad, and only NPMHR accepts money from the (state) government. None of the organizations feel that they have been unable to take up an issue or pursue a programme due to lack of funds. They are confident of raising enough money as and when need arises. Funding, therefore, is not a cause of concern or worry.

Membership

The organizations are composed of members and elected leaders. A distinction is often made between ordinary members and activists: this is informal, yet important. They also draw support from their sympathizers. *Ordinary members* are fee paying members, who may or may not attend meetings regularly or participate in the activities on a regular basis. They have a right to vote in elections, and usually attend important public meetings. *Activists* are members, who attend meetings and participate in activities on a regular basis. They can be trusted with responsibilities, and are therefore most important from the point of running an organization. *Sympathizers* are a wide body of non-members, who identify with the cause of an organization, but do not have time to attend meetings or participate in activities. Some of them are leaders of political parties, who do not wish to become formally associated; others are former members or activists, who either do not have enough time to participate actively or have moved away to another place. However, they can always be depended upon to come to the aid of an organization if required. Their most important function beside providing moral support is to provide funds, virtually on a regular basis.

There is no formal bar on anyone becoming a member of a rights organization. The only requirement seems to be that the person intending to become a member must agree with the aims and objectives of the organization. Some organizations require new members to sign a declaration to this effect. However, in some organizations like the CFD and PUCL, formal rules impose restrictions on members of political parties becoming office-bearers -- but do not bar them from becoming members. In other organizations, the same principle operates informally.

Members are free to hold any political opinion and participate in political activities in their individual capacities. In the pre-Emergency days, the membership was specifically politically oriented. After the Emergency, many individuals who had no particular political affiliations began to join human rights organizations. Now the membership is more diverse. However, there seems to be a distinct division between civil liberties and democratic rights organizations. While the former have more liberals or socialists in the form of Gandhians or Lohiaites

(ideological followers of Ram Manohar Lohia), the latter have predominantly left-wing oriented members. Right-wing members, or those associated with the Bharatiya Janata Party (BJP), are indeed rare. In instances where members have changed their political positions and have embraced the political philosophy of the BJP, organizations face internal crisis, as in the case of APDR and PUCL. The predominance of a single political orientation among members of a particular organization is understandable in the light of the fact that they work in a close-knit fashion, and so those who feel comfortable with the political position of other members, usually join or work in particular organizations.

Whether the membership is growing is difficult to assert with accuracy because very often the leaders themselves have no idea of their organizational strength. This is not only because of poor record-keeping, but also because of the fear that it might be counterproductive. Thus APCLC, till very recently, deliberately did not prepare a list of members (fearing that it might get into the hands of the police). In any case, the emphasis of these organizations has not been to increase their membership in the sense of making them into mass organizations. By and large, these have been, and remain, activist in nature.

There is no formal recruitment policy -- though some kind of policy does operate informally. Many of those who join have previously been sensitized to rights issues in different social movements or political groups. Others are friends of existing members, who start attending meetings -- then gradually become formal members or activists. In PUDR, the leadership is constantly on the look-out for "committed people." Some of the academics involved with it make an effort to influence their students to join the organization. In some other organizations though, especially the PUCL and CFD, there is some genuine concern about recruiting new members as most of their members are now rather old. According to a national vice president of PUCL, there is an urgent need to "think . . . very seriously, and evolve new methods to attract young energetic people."[60]

Practical considerations play an important role in who can or does become a member and participates in a full and meaningful way. Five factors need to be pointed out in this respect. Firstly, the geographical factor. Most of the organizations operate from state capitals or from Delhi. Though district-level

branches exist, there are few branches at lower levels, in the rural areas. Thus, even though the membership is open, in effect it is restricted to the urban population. Additionally, as the organizations work through meetings, and communication in the rural areas is rather poor, those in these areas would find it doubly difficult to participate fully in an organization's activities.

Secondly, regional identity plays an important role in the state-level organizations. In APDR, for example, all members are Bengalis. Since the language of communication is Bengali, it may be argued that it would be difficult for a non-Bengali speaking member to feel comfortable or participate fully. This would be incorrect since most of the members (at least in its central office) can and do speak a bit of Hindi and English, and some of its publications are also in English. It is striking therefore that there is not a single non-Bengali in the organization, not even a Bengali-speaking non-Bengali. Similarly, in APCLC, there are just one or two members who are originally from outside the state. And membership of NPMHR is, of course, based on ethnic identity. Thus, those who are from outside the state (and those who do not know the local language) do not join state level organizations.

Thirdly, the expenses involved in participating as a regular member or an activist must surely hinder the participation of many who would otherwise like to be part of an organization, especially in the cities. The membership fee is indeed very nominal -- but there are other expenses, like travelling to attend meetings or participating in fact-finding committees. Active members are also expected to make regular donations. Thus, those who cannot afford these expenses would find it difficult to join an organization or continue as an active member. A large number of college and university students would come under this category. It is therefore not surprising that the members in the cities tend to come from well-off or middle classes.

Fourthly, even after becoming a member, some inevitably find it difficult to continue. In organizations like the PUDR, there is an emphasis on developing a close relationship with the existing activists and "getting to know each other." In theory anyone can become a member, but it is actually quite difficult to get into the "inner circle," especially if their motives are suspect or if their views do not

correspond with those of the dominant group within the organization. This is true of all democratic rights organizations, but especially of PUDR, which is a close-knit group of activists.

Lastly, in the civil liberties organizations. like PUCL, it is considerably easier to become a member and be accepted as one, due to diverse membership. New members also join when an issue assumes national importance and a particular organization becomes associated with it. This happened after CPDR published its report on Bombay riots in 1993. But the new members often leave the organization in the absence of any encouragement from the older members and leaders, who might not give them any responsibility or make them feel part of a team.[61]

What kind of person becomes a member? Kalra, an active member of PRO, sees the membership being constituted by three distinct categories of persons. (1) Those for whom human rights activity is "a big ego trip." They see it as being fashionable to become a member of a human rights group. (2) Those in the other extreme, who have no choice: they must "either fight or die." (3) The "usual social activists...who think that their political aspirations are better formalized in a voluntary organization, rather than in a political party." Very often they join such groups either quite by accident, or because a friend of theirs is already a member of that organization.[62] Ghose, the PRO president, agrees with this classification but adds that those in the third category are "middle roaders" as they are not "professional social activists." All of them do something else for a living, and social activism is only a part-time voluntary activity.

Most of the members or activists can be said to belong to the third category. In relation to the second category, it must be said that the nature of organizations precludes the active involvement of the "fight or die" category. The organizations have not made an effort to organize the victims of abuse, though in a few stray cases some such persons have become members or activists. Further, it must be said to the credit of the rights movement in India that it has so far been largely successful in keeping away the first category of people -- for whom human rights activity is "a big ego trip."

Table 7.3
Leaders in Organizations

Leaders	Organizations	Position	Period
D. Bhattacharya	APDR	G. S.	1979-87
S. Bhadra	APDR	G. S.	1987-
K. G. Kannabiran	APCLC	President	1980-93
K. Balagopal	APCLC	G. S.	1980-
G. Mukhoty	PUDR	Advisor	1981-
V. M. Tarkunde	CFD	Advisor	1980-
V. M. Tarkunde	PUCL	Advisor	1974-
Y. P. Chibbar	PUCL	G. S.	1984-
Rajinder Sachar	PUCL	President	1986
R. Desai	AIFOFDR	Convenor	1982-
A. Ghose	PRO	G. S.	1986-
N. Krome	NPMHR	Convenor	1987-
P. A. Sebastian	IPHRC	Convenor	1986-

Notes:

G.S. = General Secretary

Mukhoty and Tarkunde were presidents of their respective organizations; later they were named advisors.

Office Bearers and Leaders

The office bearers at all levels are elected according to the rules laid down in the respective constitutions. However, in practice, elections are unanimous. For senior positions like that of the president and general secretary, there is usually no second candidate. For the positions of other executive committee members, names are proposed by activists or office bearers and then usually accepted without a vote.

In recent years, a demand has been put forward by a section of membership in APCLC for representation on caste lines. However, in all organizations, as in APCLC itself, office bearers have held office for many years at a stretch (see Table 7.3). Thus it is often the case that an organization is associated with a single individual or a handful of individuals. However, at lower levels, it is usually not difficult to become an office bearer, if a person shows enough interest and "commitment."[63]

In the pre-Emergency period, leaders of organizations were well known public figures or "names." T. Nagi Reddy, Sri Sri, and Jayaprakash Narayan readily come to mind. Others, including some founding members, have been associated with organizations for long periods. Examples are Kannabiran, Mokhoty and Tarkunde. Sujato Bhadra of APDR and Balagopal of APCLC are among the post-Emergency leaders who are regarded as inseparable from their respective organizations.

The obvious question is: are the individual leaders more important than the organizations? This question can be partly answered by pointing out that some of the organizations would either not exist or not function at all but for the continued effort of some of their founders and leaders. Individual contribution of the leaders cannot be overemphasized. This is widely accepted by the activists themselves. Sengupta, an active member of PRO told me that his organization was existing and functioning only due to the personal initiative and capacity of Aurobindo Ghose, its founder and general secretary.

> It is his organizational capacity. It is almost a one-man organization. It is because he democratically allows other people to talk (and participate) . . .

> Basically he is running the show. I think it is individual initiative. And others follow.[64]

Similarly, in APDR, Sujato Bhadra does most of the work. And it would indeed be hard to imagine AIFOFDR without Rajani Desai.[65]

The leaders, by and large, have been successful in providing effective direction to their organizations. Their opinions are respected and they provide continuity to organizational aims, objectives and programmes. Their opinions prevail over those of others: in the case of eminent figures, such as Tarkunde or Mukhoty, this is out of respect, and also because they are the founders of their organizations. In the case of post-Emergency leaders such as Sujato Bhadra and Balagopal, it is due to their vast experience. They speak from such depth of understanding of the issues involved that it would indeed be difficult to challenge their views. The authority of the leaders comes in handy in instances of disagreement over issues. In a PUCL meeting I attended, there was disagreement over the membership of two individuals who had begun to espouse right-wing views, and on the issue of adopting an attitude towards the National Human Rights Commission (NHRC). Tarkunde's opinion on both these matters was accepted -- if grudgingly by some of the members.

There is another advantage in having leaders who are in the public eye and with whom an organization can be identified. They can easily be approached by victims of abuse, members of the public and the press. In the absence of offices, this is highly important.

A fear expressed by an activist was that in the absence of strong leaders, organizations might not be able to function properly.[66] However, in most organizations, there seems to be some conscious effort by the leaders to involve others in decision making and sharing responsibility. In PRO, for example, Aurobindo Ghose used to be a part of every fact-finding committee, but now he sees to it that different individuals get an opportunity to represent the organization at various fora. In the case of PUDR, its method amounts to a system of collective leadership by the "inner circle."

Conclusion

Human rights organizations in India can be classified according to their historical background. This approach is useful in understanding their nature -- as are the self-identifying terms they use to describe themselves. The question of Naxalite violence requires serious consideration, and needs to be addressed and resolved if the rights movement is to emerge as united and effective. It is easy to suggest that the policy of tacit support to Naxalites ought to be given up, but I suspect that this will perhaps not happen until those conditions are minimized, if not eradicated, which give rise to such situations in the first place.

In spite of different histories and ideologies, the organizations are concerned with the same kinds of issues. Not only are their organizational activities similar, but the nature of response and strategies followed are virtually the same. They now cover a wide range of issues, and their flexible approach does not appear to have diminished their effectiveness. They have also shown maturity in adopting the methods they consider most effective, while guarding their reputation. The organizational structure and functioning is highly informal. Lack of basic infrastructure facilities makes the work of activists and leaders even harder, yet the system appears to work.

Notes

1. In 1989 it held an Anti-Fascist Convention. Since then it has concentrated of the issue of "fascism" in India. See P. V. Ramanujam, "A Brief Outline of the History of the Democratic Movement in Tamil Nadu," in *Civil Rights: Past and Present,* Calcutta: APDR, 1986, pp. 26-28.

2. I have taken JP movement to include the Navnirman Andolan movement (1974) in Gujarat and the movement in Bihar (1974-75).

3. This is the Citizens' Civil Liberties Association in Assam. See D. K. Kakati, "The Civil Liberties Movement in Assam," in *Civil Rights: Past and Present,* Calcutta: APDR, 1986, pp. 35-37.

4. For a discussion of the provisions in the Indian constitution, see D. D. Basu, *Introduction to the Constitution of India,* 12th edition. New Delhi: Prentice-Hall, 1987, pp. 77-136.

5. Ibid., pp. 137-146.

6. Andrew Adzic, "Modern Civil Liberties and Democratic Rights Organizations in India," Unpublished paper, 1992, p. 1.

7. AIFOFDR, *Declaration of All India Federation of Organizations for Democratic Rights,* Bombay: AIFOFDR, July 1982, pp. 5-6. Booklet.

8. Rajani X. Desai, Interview with author, Bombay, 28 February 1994. Tape recording.

9. PUDR Spokesperson, Interview with author, New Delhi, 5 February 1994. Tape recording.

10. Ibid.

11. For a criticism of this stand see Randhir Singh, "Terrorism, State Terrorism and Democratic Rights," in *Economic and Political Weekly,* vol. 27, no. 6, 8 February 1992, pp. 279-89.

12. See Citizens for Democracy, "Resolutions: All India Conference, 27 October 1985, Delhi," New Delhi: 1985, p. 4.

13. People's Union for Civil Liberties (PUCL), *Know PUCL,* New Delhi: PUCL, 1992, p. 19. Booklet.

14. Aurobindo Ghose, Interview with author, New Delhi, 21 February 1994. Tape recording.

15. Subhash Ganguly, Interview with author. Calcutta, 28 November 1993. Tape recording.

16. K. Ram Reddy, Interview with author, Hyderabad, 20 December 1993. Tape recording.

17. K. Ilaiah, Interview with author, Hyderabad, 21 and 22 December 1993. Tape recording.

18. Debasish Bhattacharya, Interview with author, Calcutta, 2 December 1993. Tape recording.

19. K. Ilaiah, interview.

20. Sumanta Banerjee was part of the Naxalite movement in West Bengal. He was arrested during the Emergency and spent about a year in jail. Sumanta Banerjee, Interview with author, New Delhi, 12 March 1994. Tape recording.

21. K. Balagopal, Interview with author, Hyderabad, 24 December 1994.

22. PUDR Spokesperson, interview.

23. AIFOFDR, *Declaration,* op. cit., p. 8.

24. Bhagat Singh, was an extremist nationalist, who entered the Central Legislative Assembly on 8 April 1929 and threw bombs on the floor of the house, protesting against the introduction of two Bills: the Public Safety Bill which allowed preventive detention, and the Trade Disputes Bill which banned strikes. See *In Defence of Democratic Rights,* March-April 1987, p. 16.

25. K. Ilaiah, interview.

26. K. G. Kannabiran, Interview with author, Hyderabad, 19 December 1993. Tape recording.

27. K. Ilaiah, interview.

28. S. V. Srinivas, Interview with author. Hyderabad, 24 December 1993. Tape recording.

29. M. T. Khan, Interview with author, Hyderabad, 24 December 1993. Tape Recording.

30. Debasish Bhattacharya, interview.

31. M. T. Khan, interview.

32. K. Ram Reddy, interview.

33. S. V. Srinivas, interview.

34. Ibid.

35. Prabhakar Sinha, Interview with author. New Delhi, 7 February 1994.

36. In the early 1980, there was a serious diagreememt between PUCL and AIFOFDR on the question of Naxalite violence. Yogesh Kamdar, Interview with author, Bombay, 4 March 1994. tape recording.

37. Prabhakar Sinha, interview.

38. K. Ilaiah, interview.

39. Rajani Desai, interview.

40. See, OPDR, *Democratic Right on Gallows,* Hyderabad: OPDR, 1977; APCLC, *"Encounter" Killings in Andhra Pradesh,* Hyderabad: APCLC, 1985; APCLC, *Political Militancy and Civil Liberties,* Hyderabad: APCLC, 1991; APCLC and OPDR (AP), *"Suppression of Naxalism": What it Really Means,* Vijaywada: APCLC and OPDR (AP), 1992.

41. See APCLC, *Political Militancy and Civil Liberties,* Hyderabad: APCLC, 1991, pp. 2-6.

42. PUCL, "Murder by Encounter," in *Violation of Democratic Rights in India,* edited by A.R. Desai. Bombay: Popular Prakashan, 1986, p. 457.

43. Arun Shourie, "Lethal Custodians," in *Violation of Democratic Rights in India,* edited by A.R. Desai. Bombay: Popular Prakashan, 1986, p. 319.

44. A. L. Johnson, "United Nations and Human Rights: A Study of the Incidence of Bonded Labour in India." M.Phil Dissertation, Jawaharlal Nehru University, New Delhi, 1988.

45. Abha Singh, "United Nations and the Rights of the Child: A Study of Child Labour in India." M.Phil Dissertation, Jawaharlal Nehru Iniversity, New Delhi, 1988. See also B. N. Juyal, *Child Labour and Exploitation in the Carpet Industry,* Monograph Series No. 29, New Delhi: Indian Social Institute, 1987.

46. AI, *What Does Amnesty International Do?* London: AI, 1985. p. 3. Booklet.

47. AI, "What Makes Amnesty International Work?" Text based on talks given by Professor A. Blane, former Vice Chairman of International Ececutive Committee of Amnesty International. Colombo, Sri Lanka: AI Publication, 1984, p. 5.

48. AI, *What Does AI Do?* op. cit., p. 20.

49. Ibid., inside back cover.

50. Sitharamam, K. "Civil Rights Movement in India." PhD Thesis, Centre for Social Studies, South Gujarat University, Surat, 1993, p. 215.

51. Hans Thoolen and Berth Verstappen, *Human Rights Missions: A Study of Fact-finding Practice of Non-governmental Organization,* The Hague: Martinus Nijhoff Publishers, 1986. p. 7.

52. Ibid., pp. 7-8.

53. Sitharamam, op. cit., p. 192.

54. For example, in the Arwal case, S. K. Sinha, a former lieutenant general and ambassador, was invited to be part of the FFC.

55. Madhav Sathe, Interview with author, Bombay, 3 March 1994.

56. Weissbrodt, David and James Mc Carthy, "Fact-Finding by International Human Rights Organization," in *Virginia Journal of International Law,* vol. 22, no. 1, Fall 1981, pp. 5-6. Quoted in Thoolen and Verstappen, op. cit., p. vii.

57. Ibid., p. 29.

58. For an excellent account of the new social movements, see Gail Omvedt, *Reinventing Revolution: New Social Movements and the Socialist Tradition in India,* New York: M. E. Sharp, 1993.

59. Kamdar, interview.

60. Ibid.

61. For example, Maya Prabhu joined Delhi PUCL in 1993. Within three months she became treasurer of the unit, while many who had joined at the same time as her, left the organization as there was "not much work for them to do." Maya Prabhu, Interview with author, New Delhi, 14 March 1994.

62. C. S. Kalra, Interview with author. Delhi, 21 February 1994. Tape Recording.

63. S. V. Srinivas became an EC memeber of APCLC, Hyderabad unit within a period of six months. Srinivas, interview.

64. Pratap Sengupta, Interview with author. Delhi, 21 February 1994. Tape recording.

65. Kamdar, interview.

66. Kamdar, interview. He was specifically referring to AIFOFDR, and the role of Rajani Desai, who seems to manage everything single-handedly.

8

Conclusions

In the earlier chapters, I discussed the circumstances in which human rights organizations in India were formed, the way they have developed and how they function. They differ in their origins, histories, ideological orientation and strategies of intervention, but they share the same basic perspective, to gather information and influence implementation of human rights by the state or government. They have successfully carved out a niche for themselves in the Indian polity. The human rights movement is nearly 60 years old, yet it continues to develop and mature.

My aim in this final chapter is to draw some broad generalizations about this movement. I suggest that its history can be divided into three phases. I also point out some of its main characteristics and tendencies. Finally, I suggest some areas of further research.

1. Human Rights Movement

In sociological literature, there is some debate about what constitutes a social movement.[1] It is not my task here to enter the debate; however, it must be pointed out that more recently a new terminology has come into use, namely, "new social movement." For example, this term is employed by Gail Omvedt in her study of the Indian dalit, women's, farmers' and environmental movements.[2] My data suggest that there is an established human rights movement in India, despite some disillusionment among a section of the activists -- especially those who are not directly associated with it anymore.[3] There is also near agreement among the majority of the activists and scholars that there is a movement today, even though it might not be a very powerful or forceful one.

I have argued that human rights with their modern attributes are a development more or less parallel with the growth of constitutional government and parliamentary institutions from the time of the British rule in India. The demand for civil and political rights was first raised by the Western educated elite. It grew as a response to changes in the political system, and was incorporated in the nationalist ideology, championed by the Congress party.

The first phase of the movement began with the formation of the Indian Civil Liberties Union (ICLU) in 1936. This phase came to an end in 1946. The importance of ICLU lies in the fact that it contributed to an understanding of what human rights meant: the right to oppose the government. This understanding served its purpose well in the colonial period, but perhaps also imposed a bias on the kind of work that was undertaken by the organizations in the post-independence period. As described in chapter 2, the 1950s and early 1960s were marked by the near absence of any significant organizations -- except for a few regional ones, modelled after ICLU. These were highly informal, and limited in their scope. Their concern was to focus on repressive preventive detention laws and the arrest of political activists. Each of these organizations became defunct once political prisoners were released or elections announced.

The second phase started towards the end of the 1960s. Tarkunde gives three reasons why it took almost 20 years from 1947 for the seeds of human rights to revive and the almost virtual absence of any significant organization during this time.[4] (1) After the national independence, people assumed and expected that "there were possibilities of real progress." (2) There were still some leaders in the ruling Congress party, who had participated in the nationalist movement -- and the people had respect and personal admiration for them. (3) The disillusionment of the people and the potential leaders of the movement was itself gradual. The faith in parliamentary democracy began to be shaken towards the end of the 1960s. Indira Gandhi's policies and dictatorial tendencies further contributed to the awakening of the movement. But the immediate cause in the rise of organizations was state repression on the Naxalite movement.

The organizations formed in this period in the early 1970s (especially the Association for the Protection of Democratic Rights and the Andhra Pradesh Civil Liberties Committee) still had a very limited agenda: that of highlighting police brutality and agitating for the release of political prisoners. However, they added a further dimension to the strategy of the movement. They did not just collect information and petition the government like the earlier organizations. They called for the involvement of the people in their "struggle" and were more militant in their approach. Their impact in this phase was limited due to the fragmented nature of the movement, coupled with the indifference of the media and public opinion.

The Emergency (1975-1977) was a watershed in Indian politics in many ways and had a great impact on the human rights scene. This also led to the third phase, with the establishment of the People's Union for Civil Liberties and Democratic Rights in 1976. This was the most significant all-India organization in post-Independent India. In counterdistinction to the earlier phase, a large number of prominent intellectuals and political leaders extended their active support. The media, too, after becoming a victim to the Emergency laws became sympathetic to the cause of human rights. The Emergency thus contributed in making the concern for, and discussion of, human rights a part of the mainstream public discourse.

Further consolidation of the third phase started in the early 1980s, after the return of Indira Gandhi to power. This is when most of the organizations redefined and expanded their agendas.

2. Tendencies and Issues

The movement today is characterized by certain definite characteristics; at the same time there are some issues that need its attention in order to be more effective. I will discuss some of them briefly.

Sustained Movement

There is an interesting parallel between the decline of ICLU and the decline of some organizations during the Janata period (1977-80). In both these situations, some leaders thought that since those sympathetic to rights issues had come to power (in the government), there was no need for independent organizations. The experiences of the Emergency had impelled some leaders to recognize that a sustained effort was necessary; others were convinced of this after the return of Indira Gandhi to power in 1980. So unlike the earlier phases, the movement is now continuous. It continues to work irrespective of which political party is in power. Autonomy from political parties is integral to its development and effectiveness, though it often has to rely on political leadership for bringing about the desired change.

Expansion of Agenda

There is a noticeable change in the agenda of the movement. Earlier, it focussed on political prisoners; now it focusses on a range of issues, which forms a comprehensive set of rights -- not only civil or political rights, but also economic and social rights. It is thus different from the "new social movements" (the dalit, women's, peasants' and environmental movements), which are oriented to single causes.

New and fresh initiatives have been a major factor in this expansion. The movement has focussed on conflict over natural resources and the politics of development, social tensions created by an assertion of community identity and communal riots, and questions relating to the position of women within the family. It has thus widened the human rights framework. This framework is being used for ushering in social change, especially with regard to the condition of women in the family. But there are some areas which are rather tricky -- for example, questions of reform within certain religious communities. In these cases, the political leadership is inclined to ignore any demands for fear of being accused of interfering in religious practices, especially if it relates to a minority group.[5]

These are thus "questions that cannot easily be sorted out within the domain of the state-citizen discourse."[6]

The movement's aim is to serve all people; its intention is not to neglect any section of the population, yet since the victims are mainly from the lower classes and castes, it has tended to focus on the plight of groups which have been traditionally oppressed, and those other categories of vulnerable groups such as refugees and migrant workers. The notion that everyday issues of exploitation and oppression should be articulated using human rights concepts is fast gaining acceptance both among the activists and the people at large.

Some organizations are taking into consideration the social and economic condition of the lower classes and castes in formulating their policies. This has already changed the way some of the issues were being looked at. For example, I have explained how the APCLC has requested the Naxalites not to harm anyone from the lower castes; additionally, they are now perceived as having a "right to struggle" against the upper castes. In future, a caste-oriented outlook is likely to have a significant impact on the structure and functioning of the organizations, as indeed some changes have already taken place in the APCLC (see chapter 5.2).

The movement recognizes that the state is the most important player in the human rights field, and its most significant adversary. It is clear that it is keen to emphasize or highlight those violations which are perpetrated by governmental agencies or in conjunction with state authorities. However, it has also identified that the state is not the only adversary, but also various kinds of power structures. Thus from just focussing on the state, it has started focussing on local power structures of dominance and oppression. Some organizations (but especially the All India Federation of Democratic Rights discussed in chapter 4.6) have also begun to focus on the policy initiatives of the multinationals and other global institutions such as the World Bank and the International Monetary Fund. They question existing models of development and politics, and focus on those who are victimized by these policies.

The Spread of Awareness

The most significant contribution of the movement lies in its role in the growth of consciousness and awareness about rights. This is also the belief of the activists. For example, according to Sumanta Banerjee, "Now it is at least on the agenda which was not the case before."[7] Sinha elaborates this view: "Earlier no one could imagine that human rights was an issue on which people could organize or mobilize public opinion and work together; now people understand when one talks of human rights . . . The greatest contribution has been to bring it on the agenda."[8]

The movement has successfully highlighted a number of issues, even contributing a term to the discourse, that of "encounter killings." People are now aware of the kinds of abuse that take place, and more importantly, they are becoming increasingly aware that these cannot be committed with impunity; and that if abuse does take place, certain remedies would be available to them. As a result, people are willing to come to organizations with their complaints. There has certainly been a change in people's attitudes. Torture or death in police custody does not go unquestioned or unchallenged any longer.[9]

The impact is visible. Reports by organizations are usually covered by newspapers, and political leaders have begun to show an interest in human rights issues. Recently (in 1995), two government ministers threatened to resign if some of the laws relating to preventive detention were not altered.[10] There is, of course, the question of preventing or stopping violations. This is a long-term goal. In this area, too, it might be said that the movement has had at least a restraining effect.

Legitimacy

Any organization which has anything to do with welfare or human rights is generally assumed to have some kind of respectability and legitimacy attached to it. However, the area of legitimacy remains a contested field. As already discussed (in chapter 7.2), this is especially true in the case of organizations that refuse to take public notice of Naxalite violence. The effectiveness of organizations

depends to a considerable extent on recognition that their information is accurate and that their action is impartial. There is a need to cultivate an image of impartiality among the administrators, political leaders and the people at large.

The organizations jealously guard their independence and credibility. Their response to foreign funding makes it clear that they will not trade their credibility, or even take the risk of appearing to do so, for any amount of cash. This is in sharp contrast to many of the organizations in the West, where each project necessarily begins by first exploring the avenues for funding, and in many cases, actually securing it before starting work. With "professionalization" it might be the case that funding will assume importance, as indeed it has among the developmental NGOs in India.

Careerism

Even partial success has brought dangers to the movement. It is so far strictly a voluntary sector, in the sense that no one gets paid for any work. But as human rights become more fashionable, activists are apprehensive that this might soon start attracting those on an "ego trip" or those who want to further their careers. They fear that if this happens, the entire movement will be brought into disrepute. It is a fear shared by many activists that any effort to make the movement more professional would have a negative impact on its credibility. Thus there is an effort to retain informal structures. One reason for the failure of Amnesty's Indian section was that it had passed into the hands of "human rights professionals." A recent pamphlet by the People's Union for Democratic Rights (PUDR) warns: "The hype of human rights and global networks has given rise to careerist trends which pose an emerging threat to the hard won credibility of the civil rights movement in our country."[11]

Let me give an illustration of what is considered an example of careerism in this area. The South Asia Human Rights Documentation Centre (SAHRDC), New Delhi, describes itself as a "non-governmental organizations which works for the defence and enhancement of human rights in South Asia."[12] But it is quite different from other organizations. It is in the business of providing a service,

more specifically, a documentation service but at a cost which is prohibitive to Indian researchers and students.[13] A copy of its statute (3-4 pages) costs Rs. 1000. Its documentation service can be used by its members, but the membership fee is Rs. 15,000. Thus this service is used mainly by the very rich or foreign (usually Western) researchers. Indian students or scholars, who usually cannot afford to pay the membership fee, may use the documentation service if they are willing to sign a contract surrendering publication rights. This has naturally angered many activists who have dubbed this organizations "a human rights organization for profit." It is inevitable that in a modern free-market economy, organizations would be established to profit from the sale of information. But the organizations in India are genuinely concerned that this may erode their own credibility.

Grassroots Organizations

I have suggested that as a result of the efforts of the organizations, there has been widespread growth in the awareness of rights issues. This has partly contributed to the rise of many grassroots organizations which use a human rights framework. These organizations are active in their local areas, and take up issues which are relevant to the local population. For example an organization was formed in south Bihar in response to a government proposal to establish a National Firing Range Project in a tribal area. The representatives of this organization claim that the project is likely to displace about 200,000 people in about 245 villages. Such organizations sometimes take action locally. In this case, the representatives had approached the PUCL in Delhi for help.[14] The movement needs to build up a network with grassroots organizations, strengthen them and in this process strengthen itself.

This is also true of the other specialized or new social movements. The rights organizations recognize other movements as distinct, and consider themselves as complementing their efforts. However, they also come together with other movements and form alliances in taking up certain specific issues. For instance, the Peoples' Rights Organization (PRO) was part of a Human Rights Campaign on

Narmada and participated in joint programmes with environmental groups in protesting against the construction of Narmada Dam (see chapter 4.2).

Professionals and Scientific Associations

As has been seen in earlier discussions, professionals, such as lawyers and academics, occupy most of the leadership positions in the organizations. This is understandable for professionals in India were greatly involved in the freedom struggle, and subsequently have come to play an important role in the management of the democratic apparatus. They sometimes use organizational fronts and combine the promotion of human rights with their professional roles. The law professionals (practising lawyers, and other law trained personnel such as judges, law academics and law journalists) endeavour to secure human rights within the parameters of the existing legal system. Nowadays they also make use of the Public Interest Litigation system (described in chapter 4.3). However, as J. S. Gandhi has pointed out, out of more than 250,000 lawyers in the country, not more than "a total of 250 lawyers throughout the country . . . are involved in the protection of the fundamental rights of the people," excluding the routine cases where a question of fundamental rights might be involved.[15] Academics have contributed to the spreading of awareness through their educative efforts, but their impact is mostly confined to the literate or already educated groups. It is therefore suggested that though the law and academic professionals are an integral part of the movement, there is further need for their involvement and continued contribution to the movement, which must take full advantage of their skills.

The medical profession is potentially very important. Doctors can be directly relevant in documenting and exposing cases of human rights abuse, especially of torture or death in police custody. Medical evidence can be used to counter spurious police assertions that detainees died due to illness or an accident. However, the situation is complicated. It is not unusual for doctors to participate in the cover up of criminal acts by the police. An Amnesty report remarks that some doctors "clearly are unable to withstand pressure from the police to provide post-mortems which assist an official conspiracy to conceal the truth."[16] According to Sinha, "Doctors are very unhelpful. They make the post-mortem reports to help the police."[17] PUDR has publicly condemned the "appalling

negligence of the doctors . . . if not of blatant collusion at least of fatal callousness."[18] Even the courts have had cause to criticize the medical profession for "professional misconduct."[19]

Amnesty has found the practice of using medical evidence very powerful. But in India, the involvement of the medical profession with human rights has been minimal. The medical profession is barely represented in the movement. There was an Amnesty medical group in India in 1986, but there is no evidence that they carried out any investigations.[20] The first report by a medical team was an investigation into the effects of torture on Nagas in Manipur who had been tortured 22 months previously by the Assam Rifles, a paramilitary force. The study team examined 104 victims, and established that nearly all had experienced "third degree physical torture," that many still bore marks of physical torture and "out of 104 examined 101 were found to be mentally unwell." As the report makes it clear, "For the first time, a medical study of this nature has been carried out on a large number of torture victims."[21] The doctors who carried out this study were from Calcutta. It was difficult to get the co-operation of the local Naga doctors who were politically unorganized and frightened of the paramilitary force in the area. Thus, the movement needs to build up strong links with the medical profession, with lawyers and academics and other professional and scientific associations.

A National Federation

Can the purpose of human rights be served by a single organization, a national federation of organizations? I have discussed (in chapter 5.3) an unsuccessful effort to form a national co-ordination committee the early 1980s by the Committee for the Protection of democratic Rights (CPDR), and as has been seen (in chapter 4.5), one federation, the All India Federation of Organizations for Democratic Rights (AIFOFDR) does exist. However, there is no permanent national structure. Some activists argues that there is absolutely no need for such federations as there is already ample and effective coordination among different organizations.[22] It must be said that there are limits to effective cooperation for organizations which have diverse identities and ideologies. However, it is not

difficult to conceive of a permanent form of cooperation -- to coordinate certain specific programmes, or an information clearing-house and data centre to gather and disseminate information on cases of violations and the action taken in each of the cases. This is an issue that has not received enough attention in the recent years, but is one that merits attention.

International Cooperation

The movement has so far tended to be insular. By this I mean that organizational efforts are directed towards remedying the human rights situation within national borders. They have not made a conscious effort to extend their activity to the international sphere. The situation is understandable, given that they have limited resources and are often too busy responding to cases which arise in the country. Considering that grants from foreign sources give immediate rise to suspicion, and independent funds constitute an invaluable credential in India, it is rather difficult for organizations to engage in any international action.

However, the organizations have established links with Amnesty International (and Asia Watch to some extent). A few individual leaders also have personal contacts with certain international organizations such as the International Commission of Jurists. In the recent past, there have been signs that activist are willing to travel abroad to attend international conferences, even if these trips are funded by foreign agencies. For example, some of them participated in the World Congress on Human Rights in Vienna in June 1993 (see chapter 6.1). Though this was explained to me as an exception, rather than a norm, it was also acknowledged by some participants that the experience gained during the conference was useful in understanding how international bodies function. A significant step was taken by the Association for the Protection of Democratic Rights (APDR) in 1994, when they invited organizations from four countries in the South Asian region for their annual conference in 1994 (see chapter 5.1).

It might be suggested that lack of solidarity -- or rather lack of proper contact and regular communication -- with international organizations removes the Indian organizations from participating in relevant developments around the world, a process in which they have the potential to make a positive contribution. Further,

a better understanding of the international initiatives would enable them to make use of some of the resources (especially in creating relevant public opinion) that might be available to them through various international bodies or agencies, including intergovernmental or non-governmental organizations.

The Movement and the Government

The government response to allegations of human rights abuse has undergone a change in the last three decades. Till the 1970s, allegations were simply ignored; in the 1980s, the policy was to deny any allegations of abuse, while not replying to any criticism directly. In the face of mounting international pressure in the post-cold war era of the 1990s, the government's approach has became somewhat more open. It now accepts that abuses take place, but points out that it takes appropriate action in such cases; it also focusses on abuses by armed opposition groups within the country, emphasizing that the police and paramilitary forces have to operate in difficult circumstances; it has permitted international groups to visit India for investigative purposes; and has also constituted the National Human Rights Commission (NHRC). This certainly gives legitimacy to the debates and discussions on human rights.

The formation of the Madhya Pradesh Human Rights Commission (MPHRC) was seen as purely cosmetic as it was set up under political compulsions in the state of Madhya Pradesh. As the motive of the state government was suspect, it hardly inspired any trust in the people.[23] It is now the responsibility of the NHRC to see to it that state-level government human rights commissions are constituted in a way that will inspire confidence in the people. As indicated earlier, the NHRC has already taken steps in this direction. The outcome of such efforts can only be known in the future.

In spite of some positive developments, the government attitude towards Indian organizations has shown little difference. Bowing to international pressure, it has permitted Amnesty teams to visit India, but there is hardly any indication that it has started taking the Indian organizations any more seriously than before. It has used many tactics to distract public attention from abuses. This is done in several ways -- by dubbing reports by organizations as unreliable or one-sided; calling

them terrorist organizations, or friends of terrorists, implying that they are "anti-nationals" and "pro-terrorist," or what is worse, launching a direct attack on the activists. The harassment of activists takes many forms: investigation of their activities, not permitting them to hold meetings or to publish material, arresting them on false charges, or even, elimination, as in Andhra Pradesh. A Human Rights Watch World Report for 1992 clubbed India with Colombia as "the most dangerous places to monitor human rights;" it also provides instances of rights monitors being killed by government agencies.[24] This not only creates fear among the activists, but also has the effect of blurring the distinction between terrorist groups and rights organizations in the minds of the people, reducing their effectiveness.

The organizations are naturally distrustful of the government. This was explicit in their attitude towards the formation of the NHRC (see chapter 6.1). However, some leaders in their personal capacities do have a working relationship with some senior political leaders, and can approach them directly. The organizations today need to make an effort to work with the government. As Rubin has commented:

> Long-term strategies for the protection of human rights in India will require the power of the parliament and administration . . . When legal institutions are weakened, the civil liberties movement must take on the contradictory task of trying to strengthen the state in order to discipline it.[25]

There is no doubt that the government, with its huge power and resources can be of immense use in strengthening human rights in the country. While the usual plea is to curb state power, or misuse of the prevailing laws, activists also campaign for the effective implementation of some rights already enshrined in the Indian constitution. An appropriate example is the focus on violation of women's rights within the family, first taken up from a human rights framework by the People's Union for Democratic Rights (PUDR) (discussed in chapter 4.3). The movement must take on the role of suggesting effective solutions to issues through the methods of creative use of law and state power. The formation of the NHRC is likely to facilitate such endeavour.

The government has shown to an extent that it is willing to implement human rights norms in the country. It is a signatory to many international declarations and treaties related to human rights. Yet there is more to be done. It can (1) ratify international instruments that it has not. such the Optional Protocol to the International Covenant on Civil and Political Rights; (2) be more open about international monitoring -- that is, accept international control and on-site inspection by international, both intergovernmental and non-governmental; (3) provide more avenues for domestic protection of human rights; (4) engage in the promotion of human rights education in schools and colleges, and in the training of military, police and law enforcement officials; and most importantly, (5) develop and enforce a policy of protecting and supporting organizations working for human rights in the country.

3. Further Research

The systematic study of human rights in India has barely begun. Thus there is enormous scope for further research in all aspects of the subject. However, I will concentrate on some major areas of immediate relevance.

There is a vast amount of literature generated by the organizations in the form of pamphlets, booklets and reports, focussing on various incidents of abuse. These are primarily descriptive. My own study is partly based on this literature. However, I would suggest that there is further need to study the literature produced each of the individual organizations. One way to do so would be a systematic study of the contents of the journals published by them. It might be added that this would require language skills as some of the journals are produced in regional languages, such as Bengali and Telegu (see Table 7.2). Due to slightly improved record keeping by some organizations, it should soon be possible to undertake comparative studies of cases. Such studies would provide an insight into the changing nature of the organizations, and the continued extension of their activities.

I have argued that one of the major contributions of the movement has been to extend and enhance rights consciousness. An empirical research to gauge the

rights consciousness among sections of the population, such as students, professionals, etc., in different parts of the country would fill the gap in the existing body of knowledge. Another related question is the relation between the spread of awareness and the apparent rise in the frequency of some specific categories of abuse, such as custodial deaths in Delhi as reported by PUDR.[26] Is this due to a deterioration in the rights situation? Or is it merely that more cases get reported and documented as a result of more awareness among the people? Empirical studies could perhaps explain the apparent rise in the frequency of specific violations. It is also suggested that studies of specific categories of rights abuse may be undertaken with a view to contribute to the area of policy studies.

I have pointed out that the human rights movement sees its role as complementing the efforts of other social movements in the country; indicated their current relations with international organizations; and detailed their attitude towards the government. I have suggested more contact and co-operation with other. It might be useful to investigate the scope or possibility of establishing a framework for multilevel cooperation among the different organizations or social movements in the country, in the South Asian region, or indeed at the global level.

An expanded research agenda is necessary for understanding the movement and the issues facing it. This is due to the emergence of new categories of rights and the transformation of existing ones. As far as researching aspects of policy or activities is concerned, it must be mentioned that organizations can make the task of research simpler if they paid some attention to record keeping. Further, some organizations have "internal records" and do not permit their members to speak to researchers. This is a hindrance in any research. The general attitude of organizations towards research is rather lukewarm. This is primarily because of the low value attached to independent social research by the political leadership or the government. Thus the findings of social research usually fail to make any impact. It is perhaps not surprising that in such a situation, the organizations are probably unaware of the potential benefits of research on either themselves or the cause they are fighting for.

Finally, let me end by quoting Arun Shourie, a founder member of PUCL. In a survey report on custodial deaths, he rhetorically asks:

> How would you want me to end this survey -- with the plea that the formal provisions of law should be adhered to, with the plea to the police to be humane, with the plea to the public to keep their anger from subsiding with such unvarying certainty, with the plea that we build up strong civil rights organizations, with the plea that the press do its job better? Choose the one you think will bear fruit.[27]

The answer is that there is a need for cooperation and better coordination among different players. The eventual aim is to create a society where no more vigilance is required and where human rights organizations are redundant. But until such a time comes, unceasing effort must continue, an effort in which they have indeed a vital role to play. It remains to be seen if they can face the challenges that lie ahead, which remain as demanding as ever.

NOTES

1. Joseph R. Gusfield, editor, *Protest, Reform and Revolt: A Reader in Social Movements,* New York: John Wiley and Sons, 1970, pp. 1-8; J. A. Banks, *The Sociology of Social Movements,* London and Basingstoke: The Macmillan Press, 1972.

2. See Gail Omvedt, *Reinventing Revolution: New Social Movements and the Socialist Tradition in India,* New York: M.E. Sharp, 1993, pp. xv-xvi and 299-319; see also Andre Gunder Frank and Marta Fuentes, "Nine Theses on Social Movements," in *Economic and Political Weekly,* 29 August 1987, pp. 1503-10;

3. For example, see Sadanand Menon, "The Marginalisation of Civil Liberties Movement," in *Rethinking Human Rights: Challenges for Theory and Action,* edited by Smitu Kothari and Harsh Sethi, New York: New Horizon Press and Delhi: Lokayan, 1989, p. 37.

4. Smitu Kothari, "An Interview with V. M. Tarkunde," in *Rethinking Human Rights,* op. cit., pp. 133-150.

5. See for example the demands put forward by the reformists in the Bohra community, who are led by Ashgar Ali Engineer, a national vice president of the PUCL. Central Board of Dawoodi Bohra Community (CBDBC), *The Reformist Bohras: Their Problems and Demands,* Bombay: CBDBC, 1990; CBDBC, *The Issues in the Bohra Reform Movement,* Bombay: CBDBC, 1991; CBDBC, *The Problems of the Bohra Community,* Bombay: CBDBC, 1991.

6. Smitu Kothari, "The Human Rights Movement in India: A Critical Overview," in *Rethinking Human Rights,* op. cit., p. 94.

7. Sumanta Banerjee, Interview with author. New Delhi, 12 March 1994. Tape recording.

8. Prabhakar Sinha, Interview with author. New Delhi, 7 February 1994. Tape recording.

9. Ibid.

10. Two cabinet ministers in the P. V. Narashima Rao government threatened to resign if TADA, a legisaltion that activists have been campaiging against, was not allows to lapse in May 1995.

11. Peoples Union for Democratic Rights (PUDR), *Remembering C. V. Subba Rao,* Delhi: PUDR, February 1994, p. 8.

12. South Asia Human Rights Documentation Centre (SAHRDC), "Join the Human Rights Movement," New Delhi, No date. Publicity leaflet.

13. To enable a comparison, let me point out that a lecturer's gross salary in India is about Rs. 5,OOO per month.

14. See "Proceedings of the PUCL National Council Meeting, 5-6 February 1994," in *PUCL Bulletin,* vol. 14, no. 3, March 1994, p. 6.

15. J. S. Gandhi, "Human Rights Efforts of Professionals in Contemporary India: A Sociological Examination of Some Select Evidence." Paper presented at IPSA Human Rights Conference, The Hague, 1-3 June 1987, p. 24.

16. In November 1986, the Resident Doctors Association of the prestigious All India Institute of Medical Sciences in New Delhi accused the police of "interferring in the professional freedom of doctors of the AIIMS." For details, see AI, *India: Torture, Rape and Deaths in Custody,* London: AI, 1992, p. 73. AI Index: ASA 20/06/92.

17. Prabhakar Sinha, interview.

18. PUDR, "A Theft and Death Sentence: Murder in Patel Nagar Police Station." Delhi: PUDR, August 1991, p. 4.

19. In one particular case, Idris Mian, a prisoner, was beaten by the police in full view of a large number of people. According to Justice Deb, who carried out an investigation, the local medical officer "did not do his duty properly. He did not give any life saving medicine to Idris and did not deliberately record the injuries inflicted on Idris to save Calcutta Police." Later when Idris was taken to the Calcutta Medical College Hospital, the doctor "created false evidence which is not only an offence but is against his professional conduct. And he did it at the instance of some of those who brought the dead boy of Idris to Medical College." See "C. M. Asks for Stern Action: Assembly Walk-Out Over Idris Mian's Death," *The Statesman,* Calcutta, 29 March 1984; Government of West Bengal,

"Memorandum of Action Taken on the Report of Deb Commission of Inquiry Regarding the Death in Custody of Calcutta Police on 28. 3. 84 of Md. Idris, Main Suspect in the Murder Case of V. K. Mehta, Ex-Deputy Commissioner of Police, Port Division." No date, pp. 1-2. Mimeograph.

20. D. S. Mehra, "Human Rights and the Medical Profession" in *Delhi Groups Commemorate the Twentyfifth Year of Work For Prisoners of Conscience, Abolition of Torture and the Death Penalty with an Exhibition of Posters,* Amnesty International, Indian Section, New Delhi: AI, 26 October 1986, pp. 13-14.

21. Drug Action Forum, *Post Torture State of Mental Health: Report of a Medical Study on the Delayed Effects of Torture on Nagas in Manipur,* Calcutta: Drug Action Forum, July 1990; for details of the case, see Amnesty International, *"Operation Bluebird": A Case Study of Torture and Extrajudicial Executions in Manipur,* London: AI, October 1990, AI Index: ASA 20/17/90; see also Co-ordinating Committee on Oinam Issue (COCOI), *The Third Report,* Imphal: COCOI, March 1990.

22. Yogesh Kamdar, Interview with author. Bombay, 4 March 1994. Tape recording.

23. N. K. Singh, Interview with author. Bhopal, 13 December 1993.

24. Human Rights Watch, *Human Rights Watch World Report 1993: Events of 1992.* New York: Human Rights Watch, pp. xvii, 169-71. For a recent example of harassment of an activist, see Y. P. Chibbar, "Harassment of Kamdar," in *PUCL Bulletin,* vol. 14, no. 1, January 1994, p. 9.

25. Barnett R. Rubin, "The Civil Liberties Movement in India: New Approaches to the State and Social Change," in *Asian Survey,* vol 27, no. 3, March 1987, pp. 391-92.

26. See PUDR, *In Pursuit of Lofe: A Report on the Aftermath of Custodial Deaths in Delhi,* Delhi: PUDR, October 1991.

27. Arun Shourie, "Lethal Custodians," in *Violation of Democratic Rights in India,* edited by A. R. Desai, Bombay: Popular Prakashan, 1986, p. 322.

Abbreviations

AACLU	All Assam Civil Liberties Union
ACLU	American Civil Liberties Union
ADDR	Association for the Defence of Democratic Rights
AFDR	Association for Democratic Rights
AI	Amnesty International
AICCCR	All India Coordination Committee of Communist Revolutionaries
AICLA	All India Civil Liberties Assocation
AICRO	All India Civil Rights Organization
AIFODR	All India Federation of Organizations for Democratic Rights
APCLC	Andhra Pradesh Civil Liberties Committee
APCRA	Andhra Pradesh Civil Rights Association
APDR	Association for the Protection of Democratic Rights
APRCC	Andhra Pradesh Revolutionary Communist Committee
BCLU	Bombay Civil Liberties Union
BJP	Bharatiya Janata Party
BSF	Border Security Force
CAWBADIA	Campaign Against World Bank and Destructive International Aid
CCCLDR	Citizen's Committee for Civil Liberties and Democratic Rights
CCLU	Calcutta Civil Liberties Union
CISF	Central Industrial Security Force
CFD	Citizens for Democracy
COCOI	Co-ordinating Committee on Oinam Issue
CPDR	Committee for the Protection of Democratic Rights

CPI	Communist Party of India
CPI (M)	Communist Party of India (Marxist)
CPI (ML)	Communist Party of India (Marxist-Leninist)
CRPF	Central Reserve Police
DSO	Democratic Students Organization
FFC	Fact-Finding Committee
FIR	First Information Report
GASS	Ganatantrik Adhikar Suraksha Samiti
GBM	General Body Meeting
GOI	Government of India
GONGOS	Government Organized Non-Governmental organizations
HRCN	Human Rights Campaign on Narmada
HRM	Human Rights Movement
HRO	Human Rights Organization
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenent on Economic, Social and Cultural Rights
ICJ	International Commission of Jurists
ICLU	Indian Civil Liberties Union
IDDR	*In Defence of Democratic Rights*
INA	Indian National Army
INC	Indian National Congress
IPHRC	Indian Peoples Human Rights Commission
IPHRT	Indian People's Human Rights Tribunal

ILRM	International League for the Rights of Man
IMF	International Monetary Fund
JASS	Janatantrik Adhikar Suraksha Sangathan
JASS	Janadhipatya Avakasa Samrakshana Samiti
JNU	Jawaharlal Nehru University
JNM	Jana Natya Mandali
JP	Jayaprakash Narayan
LHS	Lokshahi Hakk Sanghatana
MCC	Maoist Communist Centre
MCLU	Madras Civil Liberties Union
MISA	Maintenance of Internal Security Act
MKSS	Mazdoor Kisan Sangram Samiti
ML	Marxist-Leninist
MNC	Multinational Corportation
MPHRC	Madhya Pradesh Human Rights Commission
NCCL	National Council for civil Liberties
NCERT	National Council for Educational Research and Training
NGO	Non-Governmental Organization
NHRC	National Human Rights Commission
NNC	Naga National Council
NPMHR	Nagaland People's Movement for Human Rights
NSA	National Security Act

NSF	Naga Students Federation
NSU	Naga Students Union
OCDR	Organizing Committee for Democratic Rights
OPDR	Organization for the Protection of Democratic Rights
PAC	Provincial Armed Constabulary
PDSO	Progressive Democratic Students Organization
PIL	Public Interest Litigation
POC	POC Prisoner of Conscience
PRC	Peoples' Rights Organization
PRO	People's Union for Civil Liberties
PUCL	People's Rights Committee
PUCLDR	People's Union for Civil Liberties and Democratic Rights
PUDR	People's Union for Democratic Rights
RHA	Radical Humanist Association
RSS	Rastrya Swayamsevak Sangh
RSU	Radical Students Union
RWA	Revolutionary Writers Association
SAHRDC	South Asia Human Rights Documentation Centre
SKM	Sampoorna Kranti Manch
TADA	Terrorist and Disruptive Activities (Prevention) Act
UCCRI (ML)	Unitary Centre for Communist Revolutionaries of India (Marxist-Leninist)
UDHR	Universal Declaration of Human Rights
UGC	University Grants Commission

Glossary

Ahimsa. Non-violence.

Ajivakas. A religious sect; those who lived a life of asceticism.

Artha. Economic activity and prosperity.

Arthashastra. *Treatise on Political Economy,* written in the third century BC by Kautilya.

Bandh. A term for civic strike that seeks to close all offices, factories. shops, transportation, etc.

Bengali. The state language of West Bengal.

Bhagvad Gita. Hindu religious text containing the teachings of Krishna; part of the sixth book of the *Mahabharata. See Mahabharata.*

Bharatiya Janata Party or BJP. Major Hindu nationalist party in India, successor to the earlier Bharatiya Jan Sangh.

Booth looteras. People who capture election booths.

Brahmin. Highest of the traditional four varnas in the Hindu caste system; priestly caste. *See* Varna.

Chakmas. Immigrants from Bangladesh.

Charavakas. A religious sect; those who lived a life in the pursuit of pleasure.

Chhatra Yuva Sangharsha Vahini. Organization of Students and the Youth for Struggle, founded by Jayaprakash Narayan.

Communist Party of India or CPI. Both the original party and its more pro-Moscow, moderate offshoot after the 1964 split.

Communist Party of India (Marxist) or CPI(M). The more militant or left of the two offshoots of the original CPI, with strongholds in the states of Kerala and West Bengal.

Communist Party of India (Marxist Leninist) or CPI(ML). The party formed in 1969 after Maoist activists in the CPI(M) broke away following a 1967 peasant revolt in Naxalbari; now exists in many fragments; also known as the Naxalites.

Dadu. Grandfather.

Dalit. The oppressed; refers to all in the lower castes.

Danda. A rod or a stick, signifying punishment.

Dandaniti. The policy of using a rod or a stick.

Dar-ul-harb. A war zone, antithetical to Dar-ul-Islam.

Dar-ul-Islam. The land of Islam.

Dharna. Sit-in; strike; a form of non-violent protest.

Dharma. Duty; Hindu laws of social order.

Din-e-ilahi. A religion founded by Akbar (1526-1605), combining some of the teachings of both Hinduism and Islam, which was not very popular, and was forgotten after his death.

Diwali. A Hindus religious festival.

Emergency Virodhi Manch. Front against Emergency.

Faujdar. District administrator.

Farud. Duty.

Ghadhar. Revolution; revolutionary.

Girijans. Those who reside in the forest; "original inhabitants"; also called adivasi; classified as tribals.

Guru. Teacher, a learned man.

Hadith. Islamic religious text.

Harijan. Son of God; a term popularized by Gandhi for the Untouchables. *See* Untouchables.

Hindi. National language of India.

Id. A Muslim religious festival.

Jantantra Samaj. *Democratic Society.*

Jazia. Tax for non-believers according to the Islamic tradition.

Jibasi. Livelihood.

Jihad. Holy war, religiously sanctioned.

JP Movement. A political movement led by Jayaprakash Narayan in the early 1970s.

Kama. Pleasure.

Kshatriya. Warrior caste; second highest of traditional four varnas.

Lal salaam. Red salute; a greeting for one communist to another.

Lok Sabha. Lower House of the Indian Parliament.

Lok samiti. Peoples' committees.

Lok shakti. Peoples' power.

Lokayatas. A religious sect; those who denied any ultimate meaning for human existence.

Mahabharata. India's longest epic describing a war between two branches of a royal family both claiming exclusive rights to the throne; attributed to sage Vyasa (200 BC-200AD).

Manava Dharma Sutra. *The Treatise on Human Duties* written or compiled by Manu (third century BC). Also called *Manu Smriti.*

Mandals. Administrative units in districts.

Manu. The first compiler of norms governing the conduct of Hindus, the *Manava Dharma Sutra.*

Millat. A nation of believers in the Islamic tradition.

Moksha. Salvation.

Muftis. Preachers.

Navnirman Andolan. A political movement which began in Gujarat began in January 1974 (nav=new, nirman=to build, andolan=movement).

Naxalites. Extremist political groups, following the Marxist-Leninist ideology. *See* CPI(ML).

Other Backward Castes or OBCs. A term of bureaucratic and constitutional derivation for the lower caste groups, mainly shudra castes; otherwise called "backward castes."

Rajya Sabha. Upper House of the Indian parliament.

Qazi. Judge.

Rastrya Swayamsevak Sangh (RSS). National Volunteers' Organization; right-wing Hindu nationalist cadre organization; its political organization is the BJP. *See also* BJP.

Rig Veda. Hindu holy text; the earliest of the four *Vedas. See also Vedas.*

Ryot. Peasant.

Sampoorna Kranti. Total revolution; a slogan put forward by Jayaprakash Narayan.

Sampoorna Kranti Manch. Total Revolution Front.

Sanghas. Buddhist monasteries; community of monks.

Santhali. A regional language, spoken in parts of West Bengal and Bihar.

Sanyasi. Saint.

Sarvodaya. Upliftment of all; A movement started by Gandhi.

Sati. Widow immolation; it was legally abolished on the initiative of Ram Mohan Roy in 1829 in Bengal, and later in other parts of the country.

Satyagraha. Exertion of truth (satya = truth; agraha = to ask politely) a term used by Gandhi for nonviolent campaigns.

Satya Samachar. Honest or True News.

Scheduled Castes or SCs. Legal and constitutional term for low, especially the Untouchable castes.

Scheduled Tribes or STs. Legal and constitutional term for the girijans, adivasis or tribals.

Shariya. Islamic religious text.

Shudra. Serving caste; lowest of the traditional four varnas.

Skridhi. Dwelling place.

Sunna. Islamic religious text.

Swaraj. Self rule.

Talukas. Administrative units in districts.

Tana. Body.

Telugu. State language of Andhra Pradesh.

Ulema. Muslim priest.

Umma. Collectivity of the faithful in the Islamic tradition.

Untouchables. Those outside the traditional varna system; the outcastes.

Upnishads. Final parts of the four *Vedas;* treatises dealing with philosophical ideas and thoughts. *See Vedas.*

Vaisya. Trading caste; third highest of the traditional four varnas.

Varna. One of the four categories comprising the traditional Hindu caste system.

Varnashrama dharma. Four stages into which a man's life was divided in the traditional Hindu system.

Vedas. The four ancient and sacred books of Hindu philosophy and social organization. Each *Veda* is divided into four parts.

Vedanta. The philosophy of the *Upnishads,* which are integral parts of the *Vedas;* literally, the end or goal of the *Vedas. See also Upnishads.*

Wesak. A Buddhists festival.

Zamindar. Landlord.

Interviews

In addition to the 49 interviews listed below, some government officials were also interviewed who requested anonymity. I have not listed informal meetings with leaders or members of organizations.

Ahmed, Talmiz. Diplomat; Minister (Press and Information), The High Commission of India, London. London, 3 June 1993.

Ahmed, Zuber. Businessman; local activist. Bhopal, 7 December 1993. Tape recording.

Azad, Shankar. Politician; secretary general, Socialist Youth Council of India, New Delhi. New Delhi, 17 February 1994. Tape recording.

Balagopal, K. Former reader in Mathematics; general secretary, APCLC. Hyderabad, 27 December 1993.

Banerjee, Sumanta. Author of an authoritative book on the Naxalite movement; journalist; former secretary, PUDR. New Delhi, 12 March 1994, Tape recording.

Bhadra, Sujato. Lecturer in History; general secretary, APDR. Calcutta, 23 and 28 November 1993. Tape recording.

Bhattacharya, Debasish. Journalist; former general secretary, APDR. Calcutta, 2 December 1993. Tape recording.

Chaudhary, S. N. Professor of Sociology; also associated with MPHRC. Bhopal, 7 December 1993.

Choudhury, Maitryee. Retired officer in a public sector company; former secretary, Amnesty International, Indian Section, New Delhi. New Delhi, 23 February 1994. Tape Recording.

Dalvi, Shama. Professor of Sociology; involved with the women's movement. Bombay, 3 March 1994.

Desai, A. R. Professor of Sociology; author of books on human rights. Bombay, 5 March 1995.

Desai, Rajani X. Former journalist; founder and convenor, AIFOFDR. Bombay, 28 February 1994. Tape recording.

Dutta, Amal. Retired footbal coach; member, executive committee, APDR. Calcutta, 1 December 1993.

Engineer, Ashgar Ali. Writer and activist; general secretary, Central Board of Dawoodi Bohra Community; national vice president, PUCL. Bombay, 2 March 1994. Tape recording.

Ganguly, Subhash. Lecturer in History; founder-member, APDR. Calcutta, 28 November 1993. Tape recording.

Ghose, Aurobindo. 1994. Lecturer in Economics; founder and general secretary, PRO. New Delhi, 21 February 1994. Tape Recording.

Haragopal, G. Professor of Political Science; vice president, APCLC. Hyderabad, 25 December 1993. Tape recording.

Ilaiah, K. Reader in Political Science; vice president, APCLC. Hyderabad, 21 and 22 December 1993. Tape recording.

Iyengar, Indira. Local activist; founder-member, Christian Association, Bhopal. Bhopal, 9 December 1993. Tape recording.

Jain, B. L. Research Officer, MPHRC. Bhopal, 7 December 1993. Tape recording. In Hindi.

Kalra, C. S. University lecturer; member, executive committee, PRO. Delhi, 21 February 1994. Tape Recording.

Kamdar, Yogesh. Engineer; national vice president, PUCL. Bombay, 4 March 1994, Tape recording.

Kannabiran, K. G. Lawyer; former president, APCLC. Hyderabad, 19 December 1993. Tape recording.

Khan, Khalil Ullah. Lawyer; chairman, MPHRC. Bhopal, 7 and 16 December 1993.

Khan, M. T. Journalist; president, APCLC. Hyderabad, 24 December 1994, Tape recording.

Krome, Neingulo. Social worker; convenor, NPMHR. Kohima, 10 and 11 November 1993.

Misra, Ranganath. 1994. Former chief justice of the Supreme Court of India; chairman, NHRC. New Delhi, 16 February 1994.

Murli, Krishnan. Student; activist, APCLC. Hyderabad, 28 December 1994. Tape recording.

Nehra, S. S. Lawyer; president, Amnesty International, Indian Section. New Delhi, 15 March 1994. Tape Recording.

Pancholi, N. D. Lawyer; general secretary, CFD. New Delhi, 16 March 1994. Tape Recording.

Pandey, M. J. Journalist; treasurer, CPDR. Bombay, 29 February 1994, Tape recording.

PUDR Spokesperson. College lecturer; former Secretary, PUDR. New Delhi, 5 February 1994. Tape recording.

Pillai, R.V. Civil servant; secretary general, NHRC. New Delhi, 16 February 1994. Tape recording.

Prabhu, Maya. Student; treasurer, PUCL, Delhi Unit. New Delhi, 14 March 1994. Tape recording.

Raju, A. Rama. Trade union leader; former member, Amnesty International, Indian Section. Hyderabad, 26 December 1993.

Rao, Purushottam (Hari). Journalist; friend of Sri Sri, the first President of APCLC. Hyderabad, 20 December 1993, Tape recording.

Reddy, M. Kodandarami. Lecturer in Political Science; member, executive committee, APCLC. Hyderabad, 20 December 1993. Tape recording.

Roy, Biren. Trade union leader; president, APDR. Calcutta, 30 November 1993.

Sakrikar, Jyoti. Former journalist; former secretary, CPDR. Bombay, 5 March 1994, Tape recording.

Sathe, Madhav. Bank officer; former secretary, CPDR. Bombay, 3 March 1994, Tape recording.

Sebastian, P.A. Lawyer; secretary, CPDR; convenor, IPHRC. Bombay, 29 February 1994, Tape recording.

Sen, Gautam. Clerk in a private company; joint secretary, APDR. Calcutta, 27 November 1993, Tape recording.

Sengupta, Pratap. University lecturer; member, executive committee, PRO. Delhi, 21 February 1994. Tape recording.

Siddique, Santullah. Politician; president, Hindu Muslim Ekta Samiti (Hindu Muslim Unity Front), Bhopal. Bhopal, 8 December 1993. Tape recording.

Singh, N. K. Journalist; former member, PUCL, Madhya Pradesh. Bhopal, 13 December 1993.

Sinha, Prabhakar. University Professor; national vice president, PUCL. New Delhi, 7 February 1994. Tape recording.

Srinivas, G. Journalist; memeber, APCLC. Hyderabad, 20 and 21 December 1993. Tape recording.

Srinivas, S. V. Lecturer in English; member, APCLC. Hyderabad, 24 December 1993. Tape recording.

Vihienuo, Thejao. Businessman; member, executive committee, NPMHR. Kohima, 10 November 1993.

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Agarwal, R.S. *Human Rights in the Modern World.* New Delhi: Chetna Publications, 1979.

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