UNIT 12: HUMAN RIGHTS

UNIT STRUCTURE

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12.1 LEARNING OBJECTIVES

After going through this unit, you will be able to –

- Know about human rights issues and their emergence
- Know different uprisings associated with human rights
- Know the consequences of different human rights movements

12.2 INTRODUCTION

Social movements as a means to represent issues, concerns and grievances of people have been discussed in the previous units. Till now, we have seen the different contexts and circumstances on which social movements may arise. In this unit, we shall focus on the idea of human rights and the associated issues, uprisings, etc.

12.3 HUMAN RIGHTS: THE FORMAL EMERGENCE OF THE IDEA

India is one of the few nations in the world that has a variegated history of human rights movement. Though challenging the precursors of the defense and promotion of human rights may be sketched to the ancient

literature and life of the people, the foundations of the modern human rights movement seem to have been laid in India only during the course of the anti-colonial struggle. In fact, in order to provide for a holistic critique of colonialism in the country, the leaders of the national movement found it appropriate to denounce the British government in India for it's complete disregard even to the basic human rights of the Indians while trying to disseminate the colonial rule in the country. Consequently, the provision for the highest order of human rights for the citizens of the country in the Constitution of independent India was taken for granted as the replication of the valued dream of the founding fathers of the Constitution from the time of the origin of the national movement in the country.

The Universal Declaration of Human Rights is considered as a standard model at the global level. However, it does not abide any force of law. It is seen that during the period of 1948 to 1966, the primary task of the UN Human Rights Commission primarily focused on building an organization of international human rights law founded on the Declaration. The Human Rights Commission compiled two chief documents- i) the International Covenant on Civil and Political Rights (ICCPR) and ii) the International Covenant on Economic, Social and Cultural Rights (ICESCR). Both these reports subsequently became international law in 1976. Along with the Universal Declaration of Human Rights, these two treaties include the "International Bill of Human Rights." The ICCPR throws light on subjects like the right to life, freedom of speech, religion and voting. The ICESCR on the other hand, focuses on food, education, health and shelter. Both covenants declare that these are rights for all people, and they prohibit discrimination. Further, the ICCPR also instituted a Human Rights Committee of the United Nations. The committee is comprised of eighteen human rights experts, and ensures that each signatory to the ICCPR observes with its terms. The Committee evaluates reports submitted by member countries every five years and issues findings based on a country's performance.

12.4 HUMAN RIGHTS MOVEMENT IN INDEPENDENT INDIA

Human rights in India is a sensitive subject, more so because of factors like the country's huge size and diverse population, extensive poverty, multifaceted culture, etc. The country has several established provisions to look into the issues of human rights. For example, the Constitution of India has provisions for Fundamental rights. Further, there is a strict system of separation of executive and judiciary in the country. These provisions ensure a systematic approach to engage with issues associated with human rights in India

The functional chronicle of human rights movement in the post independent period presents a story of contradicted promises on the one hand, and the development of a influential civil society initiative to keep the conflagrations of human rights movement burning despite many challenges, on the other. The signs of the future form of human rights in independent India became evident wherein the Constituent Assembly began to modify the provisions on fundamental rights of the people. Despite having a liberal inclination, the members of the Constituent Assembly owing to the circumstantial subtleties became restricted in their deliberations of the Assembly, such that it could not resolve on anything other than a resilient administrative apparatus even at the cost of the fundamental human rights of the people. The memo of nation building, national security and the harmony and integrity of the nation was so domineering in the minds of the makers of the Constitution that they could not move above the predictable offerings to the people by way of the fundamental rights.

As the process of drafting the Indian constitution was proceeding in India, an international event of intense importance took place in December 1948 when the United Nations General Assembly embraced the Universal Declaration of Human Rights (UDHR). Although the acceptance of the UDHR had its own political reinforcements, reflecting the prevailing reality of the time in terms of resulting cold war, it gave new motivation to the human rights movement in the recently independent countries like India. The

Declaration, in a much understated manner, ethically, if not materially, swayed most of the countries to have a all-inclusive agenda of human rights for people in their constitutions on the arrangement presented in the UDHR. Subsequently, almost all the countries, including those not very worried to have human rights as an important piece of their political system, found it fairly essential to not only sign the UDHR but also make corresponding preparation in their own laws or constitutions to imitate the philosophy of the Declaration. In such favorable conditions, the task of the constitution makers in India became more overwhelming keeping in mind the requirements of the UDHR on the one hand, and the necessities of the national harmony and integrity, on the other.

As the final produce, the Constitution of India integrates a number of treasured provisions having weighty insinuations for the human rights campaign in the country. The three significant sections where direct or indirect orientations have been made in relation to the rights of the people are the Preamble, the Fundamental rights and the Directive Principles of State Policy (DPSP). Undeniably, though the Preamble enunciates the universal vision of the creators of the Constitution on certain important aspects of the political system of the country, the understated reference to the numerous rights and freedoms of the citizens at the very onset clearly specifies the salience which the framers seemingly wanted to unite in the Constitution. Nevertheless, when it came to providing for the precise rights to the people, the Constitution architects thought of making a clear division between the first and the second group of human rights, owing to the predominant socio-economic circumstances in the country.

Henceforth, given the firm verdict of the makers to have the democratic structure of governance in the country, it was understandable that intricate provisions are made for warranting to the citizens some fundamental rights, predominantly in the nature of civil and political rights, in order to giver purposeful effervescence to democracy in India. Therefore, as given in Part III of the Constitution, there subsists six sets of fundamental rights namely- right to equality, right to freedom, right against exploitation, right to religious freedom, cultural and educational rights and the right to

constitutional remedies. As against these justiciable rights for the gratification of which the citizens are also eligible to go to court, the second generation of human rights are envisioned in Part IV of the Constitution through the Directive Principles which are to be critical in the making of governmental policies and plans on the condition of the accessibility of resources and social consciousness among the people.

A credible product of the human rights campaign, which has also added a new strength in the movement, seems to be the development of the model of Public Interest Litigation (PIL). It advanced in the wake of a petition presented in the Supreme Court by the Delhi division of People's Union for Democratic Rights on behalf of the unorganized workforces appointed by the private contractor, asking for the execution of the provisions of the Minimum Wages Act, by the government. The decision of the Supreme Court in this incident afforded some sort of legal inviolability to the struggles of the human rights groups in fighting for the cause of the defense and promotion of the rights of the destitute and susceptible segments of society. Furthermore, it has encouraged a number of people looking for judicial recourse to set the things correct for the rights of the people. For example, the efforts of H.D. Shouri through his NGO- Common Cause to protect the rights of the customers, and the efforts by Lawyer M.C. Mehta and the NGO Centre for Science and Environment (CSE) to get resolutions to the environmental difficulties of Delhi are demonstrative of the utility of PIL as a daunting tool in the hands of the people and organizations to get the rights of people sheltered.

Yet another extraordinary highlight in the efforts of the human rights organizations took place when the government of India made a resolution to establish the National Human Rights Commission (NHRC) in the year 1993. Remarkably, although a number of legal commissions and organizations existed for the defense and promotion of the rights of certain segments of society like Scheduled Castes and Scheduled Tribes, it was comprehended that such organizations neither have the outlook nor logistical upkeep to efficiently safeguard the rights of even their target assemblages. Furthermore, the need was felt for some sort of a devoted national as well

as regional organizations that can systematically look into the concerns of defense and promotion of human rights of all units of society with suitable powers and governmental support system. Subsequently, establishment of the NHRC came as a coveted step for the cause of human rights in the nation. Nevertheless, showing its tendency to play to the gallery, the government also established a large number of other commissions namely National Commission for Women, the National Commission for Minorities, and the National Commission for Safai Karamcharis etc. with the avowed determination of shielding and promoting the human rights of these divisions of society. Yet, the working of these institutions for over a decade leaves much to be wanted on the functional effectiveness and success of these bodies, together with the NHRC.

12.5 ISSUES OF HUMAN RIGHTS IN INDIA AT DIFFERENT POINTS OF TIME

It has been mentioned above that the engagement with issues from a human rights perspective on a formal set-up is a relatively novel phenomenon in India. It began only during the colonial rule in India, and more so perhaps towards the latter part. However, from the contemporary perspective, it is common to look and analyse events and issues of relevance that could be comprehended from a human rights outlook. The following account highlights some of such issues.

The sati system has been established as a significant issue in this regard. It was officially obliterated by Governor General William Bentick in 1829, after years of campaigning by Hindu reform campaigns such as the Brahmo Samaj led by Raja Ram Mohan Roy against this conformist funeral tradition of self-sacrifice of widows on the pyre of their dead husbands.

In the early 20th century, The Child Marriage Restraint Act,1929, was passed, barring marriage of minors under 14 years of age.

Again, with an attempt to give more rights to Hindu women, family law pertaining to Hindus were transformed.

Armed Forces (Special Powers) Act, 1958 remains to be a matter of grave concern even today. The power given by this act to the different state forces have been strongly criticized as being an inherent violator of human rights of common people in India.

The launch of Emergency in India is considered to have caused widespread defilements of human rights of innocent people in the country. The Operation Blue Star and the successive 1984 Anti-Sikh insurrections are another feature of extensive violation of human rights of common people in India.

The widespread ethnic cleansing of Kashmiri Hindus, defiling Hindu temples, killing of Hindus and Sikhs, and kidnappings of foreign tourists and government officials, and the subsequent disturbances in Jammu and Kashmir have gone down history as a brutal attack on human rights of citizens of this country.

These are only a few examples highlighting the issues of human rights concern in the country.



CHECK YOUR PROGRESS

Q1) What led to the rise of Human right movement in India?

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Q2) When was Indian Civil Liberties Union (ICLU) established?

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Q3) What is the full form of UDHR?

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Q4) What is Public Interest Litigation (PIL)?

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Q5) When was National Human Rights Commission (NHRC) established?

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12.6 LET US SUM UP

- Human rights movement in India has grown with the passage of time. Emerging as a fallout of different socio-religious transformation crusades propelled in the nation in the pre-independence era, the visible character and perceivable forms of the human rights development wound up remarkably during the mid-20th century.
- The actual impetus was given to the development during the span of the freedom struggle alongside opposing the overbearing laws and controls of the British rulers.
- In the post-independence period, in spite of having elaborate provisions having satisfactory indications for the enjoyment of human rights by the common people, the condition did not turn out to be as conducive as was guaranteed by the national leaders.
- The epitome in this route came during the period of 1975-77 when the national emergency exposed the inadequacy of the human rights crusade in the country to survive in such extreme circumstances.
- Subsequently, a new energy was seen both in term of increase in the number of human rights agencies as well as growth in the operational domain of these agencies. The field of the human rights movement no longer was restricted to the protection and campaign of civil and political rights of the people. Additionally, it went on to incorporate almost all domains of human activity to guarantee that the basic rights of the people are not infringed upon in any form and in any place.
- The governmental activities in this direction came with the formation of national as well state level human rights commissions which would look into the trepidations of human rights.