The State and Human Rights Movements in India

Upendra Baxi

Questions of Method

The abundance, diversity, and history-forming struggles for human rights in India foredoom to failure any project of overall description. And yet it remains important as a resource for future to renarrativise these struggles in all their complexities, and relate these both to the state-formative practices as well as transformation of the Indian society and culture. In the first place, the magnitude of such an endeavour may be indicated by raising a few questions of method. There are at least three crucial questions which we need to articulate briefly:

(a) the tyranny of the singular;
(b) construction of a semiotic entity called 'human rights';
(c) towards a 'historiography' of human rights in India.

The Tyranny of the Singular

Resistance to the tyranny of the singular is, I believe, a resource for struggle for human rights. Pluralisation of the 'state' as well as human rights movements is the first step towards constructing a narrative of theory and practice of human rights. To be sure, totalising critiques of the centralised unity of state power (national
movement for human rights) has its own praxiological and ideological uses. But we must also recognise that even as power resistance could be ‘global’, victimisation entailed in violation of rights in resistance or by the excesses of power is uniquely individual; for, power inscribes itself on the body, mind and spirit of individual human beings and amplifies its mission through these processes of inscription to whole groups (women, indigenous peoples, religious minorities, dalits, etc.) or to the whole society (as in the case of the Indian internal ‘emergency’ of 1975–76).

Aggregative analysis, or meta-narratives of human rights movements necessary for cross-national comparisons serve this purpose well only if they stand informed about the diversity and multiplicity of human rights movements. Such movements have a variety of origins, missions, trajectories, leadership patterns, vulnerabilities, impacts and finitudes. The histories of their origins define the terrain of their articulation and levels of linkages with other human rights movements—both national and international. Relations of cooperation/conflict—with the state agencies as well as international institutions, inclusive of foreign states—also present a varied pattern. Some movements tend to develop a whole variety of such linkages and relations; others remain relatively autonomous by choice or necessity.

Given this perspective, one might even say that there is no nation-wide human rights movement in India: there are only human rights movements. The trajectory of resistance to undemocratic practices of power entailing profound violations of human rights, is yet to be fully traced and understood. India is still to find her own history, and historians, of human rights.

The caveat of resistance to the tyranny of the singular must also extend to the notion of the ‘state’. Despite the overarching grid of ‘sovereign’ power, the ‘state’ constitutes a variety of multiplicities; in India, the state at the local level symbolises itself often as a micro-fascism of power; while the nation-state celebrates its commitment to the rule of law, it also allows space for (what I have elsewhere called) ‘surplus repression’, or the reign of terror. It is historically validated that rule of law coexists ‘peacefully’ with the reign of terror (Baxi 1993: 85–94).

There is, of course, a close connection between the ‘local’ states and the nation-state in the spheres of repression. At the same time, it is not to be regarded as axiomatic that political, bureaucratic and security regimes constitute a highly cohesive formation totally devoid of rights-friendliness, however meagre and unhistoric this tendency might appear. Severe legitimization deficits—appreciated or real—often reinforce such tendencies, and when we add the constitutionally ordained federal principle (and detail), the processes of competitive politics of human rights also assist, across regimes in the same state and as between the state and national governments, ‘rights-friendly’ rhetoric and action (the distinction between the two should never be blurred). When we add to this the wayward but strident insistence on human rights observance by the relatively autonomous judiciary (notably the high courts and the Supreme Court of India), we reach a new and constantly innovative arena of negotiation and accentuation of rights-friendly tendencies located at the heart of governance, clogging, as it were, some of the arteries of power.

Construction of a Semiotic Entity Called ‘Human Rights’

The construction of ‘human rights’ as a new semiotic object involves, as Griemias (as also Landowski) have taught us, both the processes of production juridique as well as verification juridique. How law—as discourse and language—creates new semiotic entities is a complex question in the Griemiasian tradition centring upon the issue: does the construction of a semiotic object entail primarily, or even exclusively, the transformation and reconstitution of elements of the ‘natural’ language or does it involve invention, almost ex nihilo, of new semiotic entities (Jackson 1985).

According to Griemias (and also Landowski), production juridique consists in the creation, by naming, of a new semiotic object drawing on some ‘elements’ of ‘natural’ language: the act of naming/designation is the ‘conferment on a sign of the status of belonging to a particular semiotic universe . . . ’ and marks the process of ‘creation of legal meaning’. But the name, the sign, the semiotic objects remain virtual ‘until such time a judge uses it in adjudication’ which is described as verification juridique, which transforms ‘potential communications’ of legislators into ‘actual communication’ (Jackson 1985: 32–35).

The tension between these two views can be related to human rights discourse as well. Positivistic jurists insist that human rights
There is, further, the question of hegemonic temporalities. Would it be anachronistic to seek the root of human rights consciousness in the early phases of the nationalist movement? Or to interrogate the leadership of the freedom struggle from the contemporary perspective of human rights movements? Of course, to invoke the Universal Declaration of Human Rights as a marker of the birth of contemporary human rights consciousness will itself be an act of privileging the notion that human rights is essentially ‘western’ in its origins. Such a position, as we all know, has its own historic impact on practices of power in many a third world society which valorises the discovery of their own cultural traditions emphasising duties and responsibilities over entitlements. The current cottage industry of philosophical critique of the very notion of basic human rights, not too curiously, aids and abets such practices of power.

Is it at all possible to say that the nationalist struggle in India selectively reappropriated the liberal traditions of rights, as a resource for combating colonial/imperial domination? Would it be too much even to say that the Universal Declaration of Human Rights is a text co-authored among others, by the Indian nationalist pen? These questions await Foucauldian labours.

A related question of method is one of periodisation. One may periodise the study of rights movements in India by identifying charismatic/inaugural leaders or regimes. Or do we accomplish periodisation in relation to basic changes in the economy and polity? Or, further still, by combining the elements of forging with the consciousness and solidarity—both in terms of enunciation of rights and practice of implementation—at the global level? Any choice on this count will certainly predispose the narrative of the ‘state’ and human rights movements in India in a certain ineluctable direction.

How do we deal with the problem of production of discursive truths in the narratives—whether global, national or local—of rights violation? The activist discourse produces an order of truths about violation which differs from the order of official truths. The collision between the truths of power and truths of resistance, of necessity, characterise state–human rights movements’ encounters. A prime task of human rights historiography in India would be to assess changes in patterns of discursivity. How far, for example, have the institutional modes of production of official truths been affected by changes/discontinuities in the power of activist discursive practices? What resilience do these practices have? Or how does the politics of human rights movements in India impact upon national–state-level politics? And by what indicators do we locate the impact of the former on the latter?

Even the raising of these issues of method runs the risk of being inaugural. Human rights communities are marked, as we see later, by a variety of actors, almost all of whom seem to have strong aversion to what remotely resembles ‘theory’ type concerns. This has generated a mounting loss in terms of anguished collective reflection and stocktaking. Perhaps, the activist aversion to ‘theory’ is wholly understandable, and some will say, despite the great exemplarship of Marx, that their disdain for rigorous analysis is even justified. What is not so easy of comprehension is the disregard of these issues by all those whose freely chosen avocation is political or social theory.

The Constitutional ‘Theory’ of Human Rights

Coeval with the formulation of the Universal Declaration of Human Rights and anticipating many a future development in international human rights, the constitutional conception of rights is both historic and inaugural. The Indian Constitution has provided models for enunciation of rights and apparatuses of governance, for weal or woe, to many a developing society.

The ‘theory’ of rights animating the Indian Constitution has at least three distinctive features. First, the Constitution distributes rights into judicially enforceable rights (Part III of the Constitution) and social and economic rights which the state must respect in law and policy-making as well as in governance (Part IV: Directive Principles of State Policy). Second, in many respects the fundamental rights in Part III emerge not just as a corpus of limitations on the power of the state, guaranteeing state-free spaces for the pursuit of individual and collective life projects but also as an onslaught on intransigent attitude and behaviour in society and culture. In other words, through Article 17 (constitutional outlawry of untouchability) and Article 23 (constitutional proscription of many forms and agrestic serfdom and traffic in human beings), the Constitution directly addresses and confronts the dominant formations in civil society; the Indian Constitution is inaugural in the sense that it enhances the reach of fundamental rights beyond the
state, to the civil society. Third, the Constitution is distinctively solicitous of solitary rights of linguistic, cultural and religious minorities as well as of the socially, educationally, and other ‘backward classes’.

It is important to trace the dynamic development of these three innovative features which have in turn generated, through judicial power and process, a new hermeneutics of rights.

Conversion of Directive Principles into Fundamental Rights

The first feature—division of rights into Part III and Part IV—has been substantially, though not wholly erased by adjudication. ‘Rights’ under Part IV, which were declared unenforceable but ‘fundamental’ to the governance of the country have been gradually converted into the sphere of enforceable rights under Part III.

The task which was left unaccomplished by the authors of the Constitution in terms of the minimum entitlements of the impoverished masses of India has been followed up since the 1980s—through social action litigation by the Supreme Court of India which, through its corpus of activist jurisprudence, has enunciated many new basic rights. Among the judicially created fundamental rights are the

- right to dignity
- right to livelihood
- right to compensation and rehabilitation for injuries done or caused by state agents or agencies
- right to speedy trial
- right to health
- right to education
- right to gender equality
- right to environment

Of course, the enunciation of new rights, even if regarded as ‘component rights’ to the rights already enshrined in the Constitution, through the apex court does not signal any comprehensive achievement of these rights, given the not-too-readily subversible ingenuity of executive power. But it is nonetheless remarkable that through the deft deployment of the relative autonomy of the judiciary from the polity and market, the adjudicatory power differentiates itself as a form of state power, thus accentuating contradictions within the hegemonic apparatuses of governance in India. In social action litigation, we find a whole new range of themes on which public discourse on the ethic of practices of power emerges.

Social action litigation is itself an extension of human rights and popular movements into state formative practices. The initiators of the social action litigation comprise a variety of activists, individuals and groups, supported by the media and the bar. In this sense, people participate, through activation and legitimation of adjudicatory power, in fashioning an expansive regime of rights converting the Supreme Court of India into a permanent Constituent Assembly of India, sculpting the nature and future of rights movement, steadily converting Directive Principles of State Policy into judicially enforceable rights.

As I have analysed elsewhere (Baxi 1980) judicial activism arose as an aspect of cathartic populism for the Supreme Court’s own constraints of commission and omission during the internal emergency of 1975–76. But much of human rights activism also arose out of the middle class ‘radicalisation’, out of the same experience of the collapse of state structures into legitimised arbitrariness in practices of power. Both the media and legal professions, as well as many other learned professions, which had taken a modicum of rule of law granted as a public good (despite the problem of free riders) suddenly found themselves as de-privileged as large sections of the impoverished since independence. All round, public energies were released to ensure that the Constitution does not remain a plaything of power, at least in ways which affect the privileged strata or ‘classes’. The judiciary emerged, especially the Supreme Court, through social action litigation as a new democratic icon. The Supreme Court began to hunt and haunt the nooks and crannies in the edifice of state power to locate sources of despotic arbitrariness and to curb and confine them; this saga of judicial valour affecting state formative practices awaits its own raconteur.

The fifteen-year-old innovation in the functioning of the state has attracted its own dynamic of disenchantment and wearisomeness, and periodic critique of the betrayal of revolution of rising expectations. And yet, despite all the limits of judicial power and process, the Supreme Court of India, amongst all the institutions
of governance remains, in the words of Justice Goswami, the 'last refuge of the bewildered and oppressed'. The Supreme Court of India has become the Supreme Court for Indians; it has been able to take rights seriously only because it has been, to some extent, able to take people's suffering seriously (Baxi 1988: 387–415).

**Human Rights Stand Addressed to Civil Society**

The second innovative feature modifies the classical liberal understanding of civil rights as state-free spaces for individual life plans. Certain individual life plans or cultural ways of legitimating these are declared unconstitutional. Not merely do Articles 17 and 23 enunciate rights against practices of power in civil society but mandate state action to combat formations of power in civil society which violate basic human rights. The Indian Constitution is unique in that it designates violations of these rights as offences created by the Constitution itself and casts a constitutional duty on Parliament to enact legislations, regardless of federal distribution of legislative powers provided in the Constitution. The significance of this innovation in instituting basic rights has not been fully grasped in India even by the communities of human rights activists.

It is the same gravitational field which has enabled the constitutionalisation of Indian criminal law. Penal law does not ground itself in any recognition of human rights whose violations is its mission to redress. Its mandate is generally to protect human beings from agonistic conduct causing harm to individuals, society and the state. Criminal law protects interests crystallised into public policy and not rights.

But over the years, the communities of human rights have in the title of human rights catalysed reforms in criminal law, the reforms are directed to reinforce basic rights, extant as well as emergent. Adjudicatory discourse also stands oriented in the interpretation of penal law to the human rights matrix of these reforms—whether these be oriented to protect environment (as a part of emergent rights under Article 32) or to deal with gender aggression violating rights to equality and life of women (e.g., dowry murder, custodial rape, sati).

Learning quickly from the activists' endeavour to constitutionalise the penal law, the Indian state has also articulated the notion that 'terrorism' is a violation of human rights and recently constrained major human rights communities to amplify this acknowledgement. At strict law, 'terrorism' consists of a series of violations of the penal law in that the actions/entities undertaken by 'terrorists' are those which already, and for a long duration, stand prescribed by the penal law and are subject to law enforcement by its processes. As such, no question of violation of human rights strictly arises; what is involved is the violation of penal law. Human rights activists whose principal arena of combat is what is called 'state-terrorism' have not fully appreciated the fact that while illegal use of force by state agents constitutes a violation of fundamental rights enshrined in Part III of the Constitution (as expansively constructed by adjudicatory process and power), 'terrorism' involves, at least under the law of the land, a series of criminal transgressions. Criminal activity, potential (that is attempt) or actual (commission of an offence), stands de-privileged in legal discourse with the important caveat that the state shall rigorously follow due process standards and where it lapses, violations of basic human rights occur. When the politics of rights seeks to privilege certain forms of 'criminality', viewing popular illegalities as an aspect of revolutionary struggles or as nascent articulations of human rights struggles, the state also stands privileged, by the logic of this discourse, to constrain activists to denounce 'terrorism' as violation of human rights.

My purpose in the foregoing observations is to describe and not to evaluate these tendencies and to raise a question worthy of most anxious consideration: how far should one engage the logic and languages of human rights in the creation of new crimes and punishments, beyond what stands articulated in Part III of the Constitution? It does need reiteration that expansion of criminal sanctions also replenishes the power of the state and the law which is already formidable.

**Solidary Rights**

The Constitution is abundantly solicitous of basic rights of the deprived, dispossessed and disadvantaged classes (whom Babasaheb Ambedkar used to call the *atitsudras*) as well as the rights of linguistic, cultural and religious minorities. The latter have been endowed with near-paramount status by the Supreme Court of India at least in relation to establishment and administration of
educational institutions of their own choice (Article 30). The distinctive feature of these rights is that they belong to historically as well as constitutionally/legislatively enunciated groups of peoples. In some senses, these rights approximate to the notion of 'democratic rights'.

Part III of the Constitution departs radically from the logic of classical liberal human rights model over here. The constitutional provisions, instead of limiting the power of the state enhance this power by providing for affirmative action. And the enunciation and enforcement of these rights mark a derogation from rights to equality of all citizens conceived as equality of each individual citizen or person. The solidary rights are, in contrast, designed to empower collectivities, howsoever defined from time to time. They enhance the power of politics: they make inroads into equality notions generally, though not as popularly understood.

As the Mandal movement in the 1990s, for example, underscored, human rights movements became deeply fissured on the issue of solidary rights: the civil libertarians invoked the liberal logic of rights, the democratic rights' movement emphasised the solidary rights. Generally speaking, endowment of group/community rights creates the problem of individual rights within/against the community as the Shah Bano discourse illustrated (Das 1995: 117–59; Pathak and Sunder Rajan 1992: 257–79).

In dealing with politics of community rights enunciation and enforcement, both the contradictory class location of human rights activists and their ideological ambivalence become writ large on their praxis. The lack of any coherent understanding of the complexity and contradiction in the constitutional theory of rights prevents any transcendent perspective from emerging. All this occasionally lends to a curious result: human rights communities become inadvertent conscripts in violation of human rights, which otherwise they relentlessly proselytise. This may seem a harsh judgment but presentation of an empirical analysis is, unfortunately, beyond the scope of this contribution.

**Activist Ambivalence to State and Law**

Human rights activists, naturally, have an ambivalent approach to high judicial power and discretion, enwombed as it is in the state. Their perceptions are shaped, despite democratisation of judicial access through simple letter petitions (what I call 'epistolary jurisdiction'), by their varied experiences of efficacy/impact of judicial decisions on the structures of power. During years of struggle for the Bhopal victims on the adjudicatory terrain, I myself experienced moments of disenchantment. And there is no assurance that these may not recur. But in any struggle for rights realisation, all search for such an assurance is futile.

That apart, I am unmoved in my belief, shaped by overall assessment, that 476 (450 High Court justices and twenty-six Supreme Court justices) adjudicators in India are destined, in ways different than others (about 5,500-odd legislators, and 15,000 top echelons of bureaucracy, police and paramilitary forces) to carry forward the task of sculpting the nature and future of Indian democracy. What the western, notably American, critics of judicial power and process condemn as an anti-majoritarian, unrepresentative institution, has an extraordinary role-potential in restoring minimal democratic virtues and values to practices of power in India. Indian human rights movements have yet to make this proposition a contested site, even as they, eclectically, invoke judicial power and process for their own noble ends. They need to remedy their insufficient appreciation of relative autonomy of adjudicatory state power as a resource for social and human rights movements, and to locate in social/political history of comparable societies of the south the salience, and the resilience of the Indian appellate judicial institutions consistent with a searching critique of judicial process, which I have myself included as part of overall praxis.

A marked ambivalence is also on display, among human rights movements and constituencies, concerning the executive and the legislature. State-bashing (state is here conceived as the supreme executive) is our favourite pastime but the uncomfortable question persists: 'what do you say after saying "Hello"! It is here that we find a variety of anti-state attitudes in the realm of rights.

One response is state/law/rights transcendent, embodied by Gandhian/Sarvodaya movements, which are an endangered species in India, with the distinction perhaps that the species may have done much to percolate itself! On this approach state and law are redundancies before an awakened social conscience and consciousness. The state undoubtedly exists but can be marginalised by 'truth force', 'third force', high-minded ethical fundamentalism, 'service-before-self' activism, (a type of self-consuming artefact)
through practice of austerity and minimisation of wants. At one end it points to philosophical anarchism; at another, and in a related way, it valorises construction of moral community (or civil society) as a way of putting state and law in their place. The state and law as an immoral nuisance will undoubtedly seek to impinge on Gandhian renaissance, as happened in the bizarre case of the Kudal Commission which opened up to the hostile gaze of corrupt power its own mirror image in the financial management of Gandhian/Sarvodaya institutions (How mean can the state get?). Making the state/law bizarre is a typical preoccupation of the spiritual heirs of Gandhi in contemporary India. And occasionally too, in contemporary India, it works well, as it did for Mohandas in relation to the colonial/imperial state.

But the nihilism of neo-Gandhians to state/law is different from that of naxalite and new-naxalite jurisprudence, not just in the latter's valorisation of retributive violence as a form of practice of insurgent politics but also in the critique of rights model/thesis. The Gandhians/neo-Gandhians have no serious discourse on rights, since rights do not belong to the genre and lexicon of the superior moral good. In contrast, the naxalite neo-naxalite critique of rights finds its, not altogether 'pure', genealogy in Karl Marx's Critique of the Gotha Programme (1891) and On the Jewish Question (1843). Theirs is not a project of ameliorating the Indian state: their project is its demolition by revolutionary praxis, with strategies of sustainable violence. If strategies or tactics demand a recourse to rights languages (as in manipulating the contingencies of state/law in the Draconian dragnet 'security' legislation or fake encounters), it is luminously clear to them and their next best friends, that what is being practiced is the motto: 'All is fair in love and war'. (Incidentally, this expression has always puzzled me because love is fortunately, after Rousseau's valiant attempt at distinction between 'romantic' and official or 'moral' love, always the latter: 'love' has been insufficiently 'theorised' in human sciences!) (Derrida: 1976: 171–81).

At the mid-point of the spectrum thus delineated lies the human rights activism of the troubled Indian bourgeoisie, where most human rights movements have their inescapable class origins and location. The Indian state often thinks through them: ever when they remain conscious of their anti-state predispositions. Avoidance of 'statality' is their first postulate: aggressive competitiveness in condemning practices of power is a sound governing guideline and again naturally so; fear of, and resistance to, co-optation by the state is their third, and again rightly so, animating passion. But at the end of the day activism is consumed by negotiating state/law/rights. But not without profound dilemmas.

**Dilemmas of Human Rights Movement**

The first dilemma centres upon the empowerment/disempowerment dialectic. In order to combat regressive forces (take your pick to instantiate this—'communism', 'sati', gender-based discrimination, child labour) one needs to enhance the powers of an interventionist state. But to empower the state by activist praxis, even in pursuit of rights, is deeply disturbing; surely, it cannot be the project of human rights activism to empower a Leviathan! Traditionally, the mission of such activism is to disempower the state, to create state-free spaces for individuals, groups, communities. But insistence on a disempowering approach is unproductive of struggle against the dispersed power of people's law formations, some of which strike at the roots of rights. Encounters between human rights activism and the Indian state presents a series of manipulation of contingencies. This is ineluctable; but the legitimacy problem for activism seems to grow apace insofar as it being the legitimating principle on the suspicion about the state's evil designs on human freedoms and rights. What other basis of 'legitimation' (an odd problematic for human rights movements) may we find instead? At a discussion in Delhi (under the auspices of the People's Union of Civil Liberties) the problem of 'legitimacy' of human rights activism, astonishingly, surfaced and there was even some talk of the need for human rights communities to 'woo the middle classes' back to the value/mission, and the languages of rights. Not too long ago (I add this by way of reminder) many leading human rights communities critiqued, rightly (prescinding the question of moral opportunism in practice of politics), the middle class support to anti-Mandal agitation on the foundational principles of equitable social transformation. How shall we package, recommoditise, rights languages in market-friendly ways, seems to be an important question in some human rights quarters in India today.

A second dilemma pertains to the question: what shall we do with the sonorous enunciation of constitutional values? This is particularly acute with some leading social theorists/colleagues who, in the wake of Shah Bano legislative reversal, were very
articulate on the foundational value of 'secularism' but now feel harassed by the fact that secularism is an alien, unworkable, futureless metaphor, which politicians harness to their own ends (as if they could even do otherwise!) and find a way of somehow invoking traditions of interfaith tolerance, discovered to be the hallmark of Indian culture and civilisation (Baxi 1994: 13–30). The politics of nihilism, in a Nietzschean sense, makes us revert to a pre-Constitution Indian past, which was visited with a mayhem by the insertion, or imposition, of culture-bound, history-laden concepts from the 'West'. This kind of 'critique' raises not merely critical questions concerning the lineage of the 'language' of human rights, but also marks the erosion of rights 'fundamentalism' to combat other kinds of—majority or minority—'fundamentalisms'. The same dilemma arises, and persists, in what we may wish to do with the constitutionally mandated scheme of derogation from the egalitarian principles for educational, employment and legislative reservations for the Scheduled Castes (a caste created by a secular caste—assaulting the Indian Constitution!), Scheduled Tribes and other backward classes, again outside the arena of polemical condemnation of self-interested practices of power (as if these could be otherwise!).

A third dilemma relates to amelioration of state institutions. On this issue, the evidence is at least unimpeachable. Human rights communities in India have surrendered the opportunities they have had to reform state institutions. They have failed to organise campaigns around, for example:

- the National Police Commission reports towards making Indian police democratically oriented;
- the Mulla Committee Report on prison reforms;
- the Law Commission's recommendation that the burden of proof for death in police custody must initially shift to the police to show that death occurred due to natural causes;
- India's derogation from the civil and political rights convention for compensation to victims of torture, cruel or unusual treatment or punishment.

All these matters have been before us for more than a decade; and despite repeated solicitation of attention of human rights communities, no supportive public opinion/pressure group campaigns have yet been launched. Nor does one witness similar campaigns for worker and community safety, against predatory multinationals in a post-Bhopal India. Nor is there organised engagement in demand formation for the state deference to progressive judgments of the Supreme Court of India on the rights of the dispossessed, disadvantaged and deprived millions of India.

How does one explain this? By recourse to the hypothesis that the troubled bourgeoisie of India, including the human rights communities, is as yet insufficiently historically troubled? Or insufficiently formed bourgeoisie? Or, is it a situation of libidinal fascination with the pathology of power, which is seen as a germinating force for the very existence of human rights communities? Or, in a related way, by a formative anxiety in nascent human rights consciousness/organisation that reformation of state may pose a setback to their growth and development? I do not know the answers to these questions; but, in the present state of play, as I am learning by experience, even raising these questions seems to invite agitated attempts at censorship by some human rights communities and activists. Regardless of such contingencies, the code of censorship opprobrium, and even exile, operative in human rights communities may begin to bear, if we are not vigilant, a family resemblance to that of the state.

Internal, friendly, and co-suffering interrogation of the direction and contours of human rights movements in India is disvalued, perhaps for cogent reasons of protection of fragile emergent communities, beleaguered as most are by hostility of state and society. The enervation of dialogical spaces deprives the fledgling human rights communities of the resources of critique and coherence. But even a contingent coherence, despite a post-modernist world around us, is, I believe, a source of sustenance for human rights movements. And the dialogical space, within the matrix of human rights movement of the troubled Indian bourgeoisie, is most critical for its future (now marked by forces of a unipolar globalisation) theory as well as concrete engagement, especially when the state manages a representation of a superior coherence.

Let me conclude by a gloss on Albert Einstein's dictum: 'Politics is harder than physics.' I add, by way of a footnote, that politics of human rights is even harder than politics of domination. And let me, also, compound the footnote by adding Emmanuel Levinas' favourite phrase: 'difficult freedom' (Hand (ed.) 1989: 250–52). Those who practice and proselytise human rights engage in the most difficult of all difficult freedoms since, above all, they owe an
accountability to the victims of violation of rights, who should never experience the possibility that human rights advocacy or action may in turn re-victimise them. The leitmotif of human rights movements in India, and elsewhere, is to resurrect the sovereignty of victims against that of the state. In that sense, human rights activism must subscribe to the radical wisdom of Albert Camus: 'I rebel, therefore we are.'

References


