

Discourses on Human Rights: The Widening Universe

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The discourse on human rights are acquiring greater seriousness in the circles of academia, social activists and even policy planning of governments globally. These discourses are providing great inputs to the policy planners and strategists of various governments in incorporating human rights agenda in their policies and programmes. The initiatives of effective implementation of human rights are reflected in these very policies of states. It becomes quite convenient to monitor the concern for the human rights regime on the part of states through these policies and programmes.

On the part of UN Commission on Human Rights (UNCHR), its research division is regularly exploring the opportunities of expanding the agenda on human rights by providing creative and innovative interpretations to the Declarations, Treaties, Conventions and Protocols on human rights. These interpretations have enabled the UNCHR to adopt a focussed approach to human rights issues in the states and societies. The special focus on social and human development through Right to Development agenda indicates the scope of ever widening universe of human rights regime.

The World Conference on Human Rights held in Vienna in 1994 may be considered a watershed in the history of human rights movement. This conference reiterated the global concern for human rights and the determination of UN systems in enforcing these rights. The conference generated an euphoria too and for a while it appeared that entire focus of human rights concern had converged on the civil and political rights. The Convention on Civil, Political and Cultural Rights undoubtedly forms the foundation on which rests the entire edifice of human rights. However, for quite sometime, as is evident from the proceedings of the UNCHR and its Sub-Commission, in the post Vienna Conference period, the convention was conveniently used as a diplomatic weapon by rival states against each other in achieving their diplomatic, political and strategic objectives. The vital issue of the responsibility of non-state armed groups vis-à-vis unarmed persons of the society was left untouched in the discourses on civil and political rights. The main reason for this omission seems to be that, in the post Second World War period, for about more than two decades, state was considered to be the main oppressor and the chief violator of human rights. The newly independent sovereign nation states in the post colonial period were sensitive enough not to allow dissent in any form, even with genuine intentions, in their societies. In response, the states did commit excesses, in small or higher degrees (depending on the history, culture, and societal norms of a particular state), culminating in the violation of fundamental human rights. Endowed with splendour of sovereignty, the states were perceived as the chief personae responsible for the enforcement of human rights.

The scene changed with the dissenting groups getting armed and acting as equal combatants in the conflict zones of the world. The situation became complex with the proliferation of arms,

particularly the small arms, and their acquisition through clandestine means in the states. In some cases, the rival states became the sources to supply the arms and ammunition to the warring non-state groups. An interesting dimension to the challenge to human rights regime emerged with creating the conflicts, which would result in the human rights violations in order to malign the states. Thus some states stage-managed the conflicts in order to attract the global attention to the violation of human rights. These violations cannot be wished away or overlooked even in the situations of armed conflicts. Nevertheless, such complex situations have posed a new challenge to the human rights regime in general and UNCHR in particular. This challenge further warranted a fresh look on the Juridical and normative bases of human rights.

The UNCHR has not remained oblivious to these challenges. The UNCHR Sub-Commission on Prevention of Discrimination and Protection of Minorities has been periodically reviewing the further developments in fields with which the sub-commission has been or may be concerned. The UNCHR resolution on Use of Mercenaries in the exercise of Right of Self-Determination is a significant development in recognition to the new challenges to the human rights regime. The Sub-Commission is also reviewing the following issues, which are the significant indications of widening universe of human rights regime. The issues are: a) Terrorism and Human Rights; b) International Peace and Security as an essential condition for the enjoyment of human rights, above all the right to life; c) Adverse consequences of the transfer of arms and illicit trafficking in arms on the enjoyment of human rights. The working paper submitted by Mrs. Koufa (E/CN.4/Sub.2/1997/28) on Terrorism and Human Rights provides an approach to the study of terrorism and its links with human rights from an essentially legal standpoint.

In a meeting (35th Meeting, held at the Palais des Nations, Geneva, 27th August, 1997), reference E/CN.4/Sub.2/1997/Sr.35, experts expressed their opinions while reviewing the further developments in fields relating to human rights. Mr. Charvez, the observer for Peru observed that 'his government had no doubt that entities other than state entities could violate human rights'. The expert rightly observed that 'respect for human rights was not the duty of states alone, but also of non governmental, national or international entities, including individuals, because the protection of human rights was a principle of Jus Cogens'. The observer of Turkey, Mr. Meric said that, 'In Turkey's view, the argument that human rights violations could be committed only by states and not by individuals or groups was inadmissible, and any definition of terrorist acts as mere abuse of the human rights of the victims constituted an incitement to terrorism'.

In fact, the Sub-Commission had already adopted a resolution (1996/20) reiterating "the unequivocal condemnation of all acts, methods and practices of terrorism... as acts of aggression aimed at the annihilation of human rights, fundamental freedoms and democracy, threatening territorial integrity and international peace and security".

The human rights agenda ultimately stresses that human rights can be best protected and promoted through the exercise of democracy and the establishment of a democratic society. The UN mechanisms are engaged in realising the ultimate objective of ushering the human kind into an era of complete democratic order. The UN concern and priority towards the promotion and protection of democratic order globally with the objective of realising the human rights agenda enjoins upon it to devise the mechanisms of removing the obstacles in the path of realising this objective. The

membership of many a theocratic or totalitarian state in UNCHR deliberations affirms the UN's progress in this regard.

The UN efforts in fulfilling the dream of realising the objectives, which are enshrined in the Declaration, would greatly depend on the monitoring mechanism of UN. The UN should devise effective monitoring mechanisms at the global, regional, national and local levels to monitor the human rights situations. These monitoring mechanisms would provide indicators to gauge the respect and observance of human rights.