Universal Declaration of Human Rights and Asia-Pacific Countries

by Dr. Mizanur Rahman

T Is difficult to find a period in the history of mankind **L** when the question of human rights has had a greater moral significance in study and practice than the period from 1948 to date. There have been times when the issue of human rights held capital importance in one country or another, but never has it attracted such wide attention and engrossing interest throughout the world as at present in this decade.

Today, human rights have become a subject of animated discussion not only at the international level but also in national jurisdictions. Every country, whether developed or developing, expresses concern for promotion and realization of human rights but the approach varies. There is a distinct approach in human rights in the Asia-Pacific region as distinguished from what is known as the "liberal western approach."

In contemporary debates, it is generally assured that there is one Asian view of human rights, and that it is opposed to the tradition of individual human rights that first developed in the West. It is easy to believe that there is a distinct Asian approach to human rights, because some government leaders approach to the subject is so. They claim that their views are based on perspectives that emerge from Asian culture, or realities or religion. The gist of their position is that human rights as propounded in the West are founded on advantaged economic condition and individualism and therefore have no relevance to Asian societies which are based on the primacy of the community. They also sometimes argue that economic

cations of this idea. Since it is assumed that the west regards civil and political rights as central to human rights and Asia accords economic and social rights that primacy, much effort has been expended on rec-onciliation. The Vienna world congress formulation was that "rights are indivisible" — but the riders that followed it demonstrated that priorities may need to be established and that these varied from country

to country.

The story of human rights as we understand it today begins with the Charter of the United Nations which included, as one of the basic principles, promotion, encouragement and re-spect for human rights and fundamental freedoms. This concern of the United Nations was translated in the Universal Declaration of Human Rights adopted by the General Assembly on 10 December, 1948. The Universal Declaration embodied the hopes and aspirations of mankind. It articulated a new vision of humanity for a national and international order where one will be able to find fulfillment of his true self where there will be no inequality of race, sex, power, position or wealth and where every human being will be entitled to share equally in the social, material and political resources of the community. It was designed to ensure the dignity of the human being and promote individual freedom with social

The Universal Declaration, however, focused more on civil and political rights than on social, economic and cultural rights representing a clash between 'Liberalism' and 'Marxism'. However, an examination

interrelatedness between development, growth, poverty and the environment. Human rights have a crucial role to play in ensuring that development ad-dress all three GNPs; the gross national product, the gross nature product and most importantly, 'the gross national

From this perspective it seems that the existing GAP's and shortcoming in the human rights system need to be addressed in their proper dimension in order to evolve and desire a sound strategy. Therefore, the following areas require

even a closer examination: a) the primarily individual orientation of human rights often means that rights of a powerful individual take precedence over those of large but powerless, poor and vulnerable groups and communities.

b) there is a need to extend the reach of human rights, not merely to deal with acts of commission, but also acts of omission. Only then can economic, social and cultural rights be seriously addressed. c) there is a need to extend the reach of human rights to sanction violations, not only by state actors but also by non-

state actors. d) there is a crucial need to devise more effective relief, redress and remedies for the victims of human rights violations and less onerous procedures for obtaining such relief and redress.

el there is also an urgent need to develop preventive strategies that seek to avert human rights violations.

Moreover, in the developing countries of the Asia-Pacific region, there is a need to examine more closely the relationa) Standard Setting: At both international and national levels, there is a need for participatory identification of com-ponent rights (such as right to participation) accountability. access to resource redistribution etc) which will give speci-ficity and effectiveness to human rights in general and to the right to development in particu-

b) Promotion: There is a need for fresh approaches to the generation of materials for development education. Such materials would both serve as an alert regarding development projects which need to be rejected and as a guide encouraging reflection as to the objectives of development.

c) Monitoring and Enforcement: The task lies in desiring from international and national human rights law, policy guidelines and accountability criteria to govern multilateral and bilateral donor agencies national development agencies, UN specialised agencies concerned with development.

The realisation of an effective human rights to development can indeed provide new and much needed avenues for national and regional human rights activism and international human rights coopera-

It should, however, be borne in mind that no human rights can be effectively enforced in the developing countries and more so in the Asia-Pacific region without the participation of the people who are the victims of poverty and violations of human rights. If human rights are to prove meaningful to those who need them most, it is vital to adopt a participatory approach to the development of

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underdevelopment renders most political and civil rights irrelevant in Asia. Indeed, they sometimes allege that such rights are dangerous in view of fragmented nationalism and fragile statehood.

It would be surprising if they were in fact one Asian respective, since Asian countries are not homogeneous. All the worlds major religions are repa resented in Asia and are in one place or another, state religions or enjoy a comparable status. Christianity in the Philippines, Islam in Malaysia, Indonesia, Bangladesh and Pakistan. Hinduism in India and Nepal and Buddhism in Sri Lanka and Thailand. Even apart from religious differences, there are other factors that have produced a rich diversity of culture. The economic conditions of all the Asian Countries are not similar either. Japan, Singapore etc. are among the worlds most prosperous counties, while there is grinding poverty in Bangladesh, India and the Philippines. The political and economic systems in Asia likewise show a remarkable diversity: There are for example, military dictatorships in Myanmar, what amount to oneparty regimes in Singapore and Indonesia, communist regimes in China and Vietnam, a kind democracies in Malaysia and Sri Lanka and a well-established democracy in India. Economic systems range from tribal subsistence economies in parts of Indonesia to highly developed market economies in Singapore, Hong Kong, Japan and Taiwan and from the mixed economy model in India to the planned economies of China and Vietnam. Perceptions of human rights undoubtedly effect these conditions and consequently, they vary from coun-

Existing differences in the perception of human rights have stimulated the search for a consensus on the importance as well as, the scope of these rights. One such attempt has been to try to 'identify core' rights that all cultures and jurisdictions would subscribe to the obvious choices being the right to life, the prohibition of slavery and the prohibition of torture, but beyond that, listened to diverge.

try to country.

While everyone would subscribe to the view that a primary purpose of human rights is to ensure the inherent dignity of a person, dissent starts with attempts to draw out the impli-

of economic, social and cultural rights is particularly valuable in uncovering the rationale for human rights. Human rights were part of the UN's post-war agenda, which emphasized their close connection with peace, development, and human

Unlike the 'negative' liberalism of political rights, these other rights raise a difference framework and pose large questions about the purpose of society and state, about social responsibility and justice, about equity and the potential of the human person. The suggestion is that a person is born full of potential — that finds fulfillment through civil and political rights - but that this potential does not materialize without appropriate social and economic circumstances. Undoubtedly, poverty is the single most important cause of the violation of these rights.

It is therefore necessary to move away from the polarities of civil and political rights on the one hand and social and economic rights on the other. These rights are, in fact, equal and indeed indivisible. Since one's perception of rights is governed by the state of a country's economic criteria, it could be argued that a certain level of literacy and economic security are essential for the exercise and enjoyment of civil and political rights. In addition, economic prosperity and high literacy without the freedom of expression or the right of association fail to develop the full potential of the human person and the denial of these rights can be humiliating and degrad-

From the above premise it becomes clear that the concept of human rights is intricately related to the concept of development. Indeed, development is often viewed as a vehicle for achieving economic growth and this is an important goal where the absence or inadequacy of growth acts as a constraint on realizing the human rights of all. Development is also seen as a vehicle for redistribution.

Human rights can also help provide the value framework for development. Human rights can and should, provide the evaluative criteria for holding development actors responsible. Human rights can also provide the means for ensuring that development will be 'sustainable' ecologically sound, and will not create 'ecological deficits.' There is indeed a close

ship between development and human rights. Extreme poverty and its attendant powerlessness and dependency, breed widespread human rights violations. Lack of resources seriously impedes the realisation of human rights of the poor. In most developing countries of this region, there is an urgent need for development and economic growth but such development must be sustamable and such growth must be economic growth with human face. This can only be realised if an

opment is articulated and implemented. Unfortunately, however, development is seen by many quarters as an obstacle to the realisation of human rights. This is because of the inherent weakness of the development policies in the Asia-Pacific region. All too often, development policies, programme and projects are characterised by:

effective human rights to devel-

a) Profligate resource exploitation and consumption which converts hitherto renewable resources into non-renewable resources,

b) Expropriation of the survival resources of the poor and the common public such as a communal forest and publicgazing grounds,

c) Energy intensive, industrial and agricultural development leading to an insatiable need for large-scale, energygeneration project (i.g. large dams, nuclear power plants etc.) whose implementation often involves human and ecological degradation.

d) chemically intensive agriculture creating problems of soil and water destruction.

e) Over-reliance on technology rather than human skills often pitting science against men and men against nature, f) Imposition of risks, bur-

dens and sometimes forced resettlements on powerless and vulnerable group and commug) Secrecy, covertness and a

clandestine atmosphere surrounding developmental decision taking which fastens rampant. Corruption with greed often masquerading as devel-

h) Profligate environmental management creating ecological deficits which imperil the survival of future generations as yet unborn.

i) Wanton indebtedness prompting the adoption of debt and structural adjustment policies which lead to food and job riots and virtual genocide for certain sections of society, including vulnerable such as children and women,

Cooperation, more recently, of NGO and community self-help efforts which often represent the only real hope for development, so far as marginalised groups and communities are concerned.

The challenge for human rights movement today lies in fashioning a rights oriented strategy to address the above practices. Such a strategy would demonstrate that the in human wrongs resulting from the above practices also constitute violations of human rights.

The right to development presents crucial, new opportunities for international human rights cooperation. However, several tasks related to further articulation and implementation of an effective rights to development needs to be advanced immediately:

human rights and their enforcement. People must fight for their basic human rights through the prowess of law and for that they must be organised. Human rights awareness must be created in them. There must be dynamic programmes for poverty alleviation and education in human rights.

..... Unfortunately today we are witness to several alarming trends in most of the countries of Asia which may be briefly summarised:

a) the growing impoverishment, exploitation and powerlessness of the majority of the urban and rural poor.

b) the growing incidence of malnutrition, hunger and starvation and growing permanent degradation of the physical environment for meeting of survival grounds.

c) the worsening of the conditions of vulnerable groups such as women, children and religious or ethnic minorities, d) the growth of fundamen-

talists trends in religious revivalism making religions a decisive rather than a cohesive el the increasing incidence of

religious ethnic discrimination and violence and cultural genocide.

f) the increasingly authoritarian nature of political institutions despite their democratic facade and the growing trend toward governmental lawlessness and abuse of power, authority and position, g) the growing militarisation

of developing countries achieved through government expenditure on arms at the expense of programmes to alleviate poverty.

h) large-scale building projects such as construction of dams which displace thousands and ruin ecology to provide energy and water for a privileged

i) dumping of hazardous and toxic goods by the developed countries in the developing countries of the Asia-Pacific region.

All these trends contribute to violation of human rights in the developing countries of the Asia-Pacific. Though politically independent, many of these countries have no effective right to economic self-determination, because their economic policies are largely controlled by external factors intervention and interference by foreign powers operating directly or through international financial organisations and agencies. Such conditions affect a state, if it is not a truly demo-

cratic one. Therefore, time has come to forge and strengthen links between democracy and rights. Democracy in all its dimensions, not merely electoral, has to be rehabilitated. The values of democracy provide the link to human rights. The strengthening of human rights would then mean strengthening democracy. But democracy, to validate and legitimise human rights, has to respond to the cultural and moral impulses of the society. Only this may pave the way for the establishment of universal values based on the dignity of women and men.

The writer is an Associate Professor of Law, University of Dhaka. He has drawn extensively from the works of Prof. Charence. J. Dias, Prof Yash Ghai, Justice PN Bhaguati and AHRC Newsletters.

The Man Against the Tide

Dr Chandra Muzaffar is President of International Movement for a Just World (JUST), a non governmental organization that promotes the cause of human rights. The Just has orchestrated vigorous campaign on a variety of crucial international issues concerning Bosnia, Palestine, Rwanda, Timor etc. A professor of Centre for Civilisational Dialogue, University of Malaya, Malaysia, Dr Muzaffar is considered as a leading Asian think-tank on north-south dichotomy, and globalisation. His dedicated role against arbitrary arrest and detention particularly against the Internal Security Act which empowers the executives with wide discretionary powers of arrest awarded him with prolonged imprisonment including solitary confinement. Dr Muzaffar is currently working with a project which he think, will explore the shared values embodied in all great religious traditions. He authored and edited a number of publications in English and Malay. Daily Star's A.H. Monjurul Kabir spoke with Dr. Chandra Muzaffar in Brisbane, Australia on his struggle against various factors of control and dominance and problems of authoritarianism. Excerpts:

Monjurul Kabir (MK): How do you feel at the present state

of society in your country? Chanfra Muzafar (CM): I was dismayed by the lack of commitment to social justice. I was appalled by the lack of commitment on part of state, the misuse of public accountability. I was also saddened by the very superficial notion of unity which existed in our country.

MK: How did you get started your daunting task of societal reform?

CM: With a few friends we started a social reform group, the National Awareness Movement. This was in 1977. We were writing, networking, etc. This was first time in Malaysia one had a group outside government raising issues of issues of social justice in a non-religious, nonethnic respect. This was the first truly non-partisan social reform movement in the country. This social reform group started a monthly newspaper which has been coming out regularly every since 1980. It has made some impact. At its peak, in 1985-86 it had a readership of perhaps close to 100 thousand. People were listening.

The government was a little uneasy about this social reform group and tried to ban the magazine using a very frivolous excuse. I had made a statement about a new salary scheme for civil servants which, in our opinion, would have increased the gap between the upper echelon and the lower echelon of civil servants. That statement was the reason given for the this attempt to ban the magazine. We managed to mobilise the public on our side, partly because the media was quite free at that time, and a lot of groups came out. We defended ourselves. Then we were not

banned. However, this attempt to ban the magazine became part of a larger move by the government to restrict the activities of citizen's groups, NGOs. They tried to introduce a law that would classify all society into two categories: One, friendly societies i.e. those friendly to them and two, political societies i.e. those which made comments on political and social issues. That attempt also failed partly because the public stood up against it.

In defending public interest at this point, I worked closely with the Deputy Prime Minister of Malaysia. He was the leader of a Muslim youth movement at that time and that was a part to mobilise society. In 1985 when we applied to publish the monthly I referred to earlier in the Malay language, the government turned down our request. We applied three times and were turned down three



banned from entering Singa-

MK: Did you encounter with the government anymore?

CM: My fourth and final encounter with the state in October 1987 was when the government arrested a lot of people, politicians and social activists and academics without giving any reasons. There was this general allegation that we were all a threat to national security and we were all put in under what was known as Operation Lalan. Lalan is the small grass that grows in many parts of the tropics. We were all put under the ISA. Most of the detainees released within two months but some politicians were detained as long as 18 months. The Internal Securities Act experience was a very important experience in my life. I was in solitary confinement for about ten days which means no communication with the outside world, not even family, no reading materials which was something really missed. After the ten day period one was allowed to see family and have reading material. They would interrogate you with all sorts of silly questions. I was interrogated by the Chief of the Special Branch and

I would be happy to meet him any time but not as a detainee. As a detainee I would be unequal. He would be a free citizen, I would not. If I would be released without condition, would then met him. They respected me. That is why I do not see the police or the Special Branch as the enemies of the people.

As for that law, I will continue to campaign against it till my last breath as it is a wrong law. And to this day, I have not changed my position one iota as far as that law is concerned and as far as other laws are con-

MK: What other problems the state of Malaysia are fac-

ing? CM: One of the things I also realised while I was in detention was this, that there were many problems that Malaysia faced including problems of control and dominance, problems of authoritarianism and problems of a type of development which concentrated on wealth, creating new dichotomies in society which enhanced consumerism in society. It was something which concerned the whole of humanity and needed viewing from a

In the global level one finds that there is reason for help. We cannot deny that today compared to 30 years ago, there is a greater degree of consciousness about human rights on national agenda. These is an awareness of women's rights, about integrity. Corrupt leaders find it much more difficult to operate today. So we have reason to hope for the future. We want to give the message to young people - do not give up. Continue to be engaged with the people in power. That is crucial. Do not treat them as if they do not belong to this planet, this universe, as if we are totally different and we should not communicate with them. Keep contact, maintain communication, because that is very, very important.

The great danger to the NGO movement is when we pursue a double track approach where the two tracks don't relate to one another at all. One track should pursue our agenda and the other should engage the people in power. But when we engage them, we must be aware of maintaining our integrity so that we don't succumb to the temptations of power. If we can not maintain our integrity and still pursue this engagement of people in power, we will not succeed at all. As an individual, I have been able to do it. What sustains me is my faith in God. That is very, very important. More that anything else, this is what sustains me. I have always believed that we should not despair but continue to keep faith. I tell the young, keep the sails up. Who knows when the wind comes. When it comes, you must

37MK: What is your views on 11 alobalisation?

CM: In the context of my country, there are aspects of globalisation which have benefited the ordinary people without any doubt. Malaysia is a trading nation and its part of the process of opening up to the rest of the world has brought in a certain degree prosperity which has reached to certain segments of society. To argue that wealth in Malaysia is only at the level of the elite is not true. You have to look at the expansion of the middle class and the way in which the lower middle class has been absorbed into the middle class, you would be able to see from this that quite a lot of people have benefited from this prosperity. Look at Internet. I know remote areas of the country which have benefited from the information of clinics in other corners of the world. So there are benefits here and there. But by and large, globalisation, even in its impact on my country, has been

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times. In 1987 we won in the High Court the right to publish in any language which we thought was a right. We could reach a lot more people. We though we could go ahead and publish, but the government appealed against the High Court position and in the Supreme Court we lost. We were denied this right to publish.

I had a third encounter with

the state in my attempt to create a degree of social consciousness in Malaysia. This involves another country. On behalf of freedom and for the sake of public participation we had taken a position against the Internal Security Act. This act allows the government to detain a person without charges for any length of time. And there have been a lot of people in our country since 1961 who have been detained under the same Internal Security Act. It was the British who introduced the law when they were in charge. We have taken a position against the law, so when some persons we know were detained in Singapore under the Internal Security Act in May 1987, we held in a forum in Kuala Lumpur to protest against those young people in Singapore because we thought it unjust. They weren't put on trial. They were being accused of all sorts of things without being given a chance to defend themselves. A few months after in October 1987, the Singapore government issued an order banning all four of us who had taken part in the forum that criticised the Internal Security Act in Singapore. from entering Singapore. The

reason given was that we had

interfered in Singapore's inter-

Chief of Police. Some good came out of it, for the police. The person who is now Chief of Police was then Chief of the Special Branch. He told a leader of the government about me: "You know what Chandra is doing in his prison cell? He is conducting tutorials." I turned these interrugation sessions into what they called 'tutorials'. When left, I set them some questions as any good lecturer would do and I gave them two reading lists. After a few years of my release, the police gave me an invitation to talk on how the public perceived the police. I spoke on the strengths and weaknesses of the police force and how they were perceived on var-

ious issues. Later at a symposium of Human Rights Watch in Los Angeles, I found other people who shared the same experiences. They imparted certain values to their interrogators. They bore no malice towards them. To those day I can say without batting an eyelid that experience has matured me and has enhanced my spirituality. This is why when I came out and the press questioned me, I told them that there was no attempt to abuse me verbally or physically. There was no attempt to pressurise me for doing anything. In fact, there were two questions that the Special Branch put to me at that time. They wanted me to say that the Internal Security Act was somehow necessary for the country. I told them I would not. If it meant that I would have to remain in detention, I was prepared. They did not pursue it. The second question was whether I was prepared to meet

global aspect. I decided I would have to not just concentrate on Malaysia but in international issues as well, global trends of this sort.

MK: How did 'JUST' come into being?

CM: I was released after 14 years. I formed another organisation International Movement

for a Just World. It is formally registered as a society and campaigning on a variety of international issues, north-south dichotomy, issues such as Bosnia, Palestine, Rwanda, Timor. These are some of our concerns. One is going against the tide. Here we are against the five 'm's - money, market, media, machine and mega-ism which has become an important 'm'. The are always 'mega' projects. Like in Malaysia we have the world's tallest building. But it's sad that the world's tallest building in the last two weeks has disappeared in smoke. It's really a pity. But this is the way it is. Others are doing this. China is going to have a building which is taller than this one. Later there will be one in Jakarta. This is sad. We are confronted with these phenomenal forces which just don't allow justice to flourish.

Take for instance our efforts to make Malaysian aware of the values which transcend religious and other differences. This idea of core values should be the basis of our enterprise. This is a change for the better. The state has incorporated some of the ideas into the law. The Deputy Prime Minister has the background of an NGO person who, despite all the difficulties, tries to incorporate some of these ideas into public polinegative. There are a number of examples to support this, as to why it has been negative. whether you see it in terms of the number of new disparities that are emerging, or you see it in terms of which a certain globalisation of culture is becoming overwhelmingly powerful. And our resistance is so weak in societies like ours because we don't have an internal value system that can take care of this intrusion, this invasion. Now these are some of the challenges that we face.

MK: In this backdrop, how can we work together? CM: Countries like Malaysia, Bangladesh and others will have to work together by which I means citizens groups will have to work together. We haven't done enough work on this. We should network. We should campaign on certain issues and I can tell you certain cases where we have succeeded by working together and campaigning to stop certain things which are a result of these kind of unity. If we are prepared to network more, then I think we will be able to do a lot

more. MK: What is JUST's (Internationals Movement for A Just World) next agenda for action?

CM: Just's next agenda for action is a project which explores the shared values embodied in all the great religious traditions. The result of our research will be published in the form of books and pamphlets. We also hope to produce video programmes on the theme of shared values.

Transcription: PROBE

Fourteen Detenues Set Free in 6 Months

URING the last six months 32 'detention cases' challenging the legality of detention orders under the Special Powers Act, 1974 have been filed in the High Court Division by the Bangladesh Legal Aid and Services Trust (BLAST). Of these 32 cases. 14 cases have already been disposed of by the High Court Division of the Supreme Court of Bangladesh and the detention orders of all the 14 detainues in these cases have been declared illegal by the Court. The rest 18 cases are pending. In 1997, a total of 58 'detention cases' were filed by BLAST in

the High Court Division. The Court found the respective detention orders in all these 58 cases illegal and ordered the release of the detenues

In addition to providing legal aid free of a cost in detention cases, BLAST also renders legal aid to the poor and disadvantaged persons in, on average, 150 court cases per month through it's Unit Offices in 13 districts of the country.