

Universal Declaration of Human Rights and Asia-Pacific Countries

by Dr. Mizanur Rahman

It is difficult to find a period in the history of mankind when the question of human rights has had 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 assumed 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

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

From this perspective it seems that the existing GAPs and shortcoming in the human rights system need to be addressed in their proper dimension in order to evolve and devise a sound strategy. Therefore, the following areas require even a closer examination:

a) 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.

b) 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.

c) 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.

d) 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 relationship 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 sustainable and such growth must be economic growth with human face. This can only be realised if an effective human rights to development 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, programmes and projects are characterised by:

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 public grazing grounds.

c) Energy intensive, industrial and agricultural development leading to an insatiable need for large-scale, energy-generation project (i.e. 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, burdens and sometimes forced relocations on powerless and vulnerable group and communities.

g) Secrecy, covertness and a clandestine atmosphere surrounding developmental decision taking which fastens rampant. Corruption with greed often masquerading as development.

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.

j) 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:

a) Standard Setting: At both international and national levels, there is a need for participatory identification of component rights (such as right to participation) accountability, access to resource redistribution etc) which will give specificity and effectiveness to human rights in general and to the right to development in particular.

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 desisting 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 cooperation.

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 human rights and their enforcement.

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 perspective, since Asian countries are not homogeneous. All the worlds major religions are represented 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 countries, 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 one-party regimes in Singapore and Indonesia, communist regimes in China and Vietnam, a kind democracy 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 country to country.

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.

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 implications.

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 a national agenda. There 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.

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 of 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

banal affairs. Till today I am banned from entering Singapore.

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 Lalang. Lalang 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 I 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

the Prime Minister. I told them 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, I would meet 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 concerned.

MK: What other problems the state of Malaysia are facing?

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

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 organization 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 said 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 is said, 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 religion 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 poli-

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I had a third encounter with the state in my attempt to create a degree of social consciousness in Malaysia. This involves an action that was a part to mobilise society in 1988 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

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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 Bhagwati and AHRC

INTERVIEW

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?

Chandra Muzaffar (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 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 social justice in a non-religious, non-ethnic 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 1988 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

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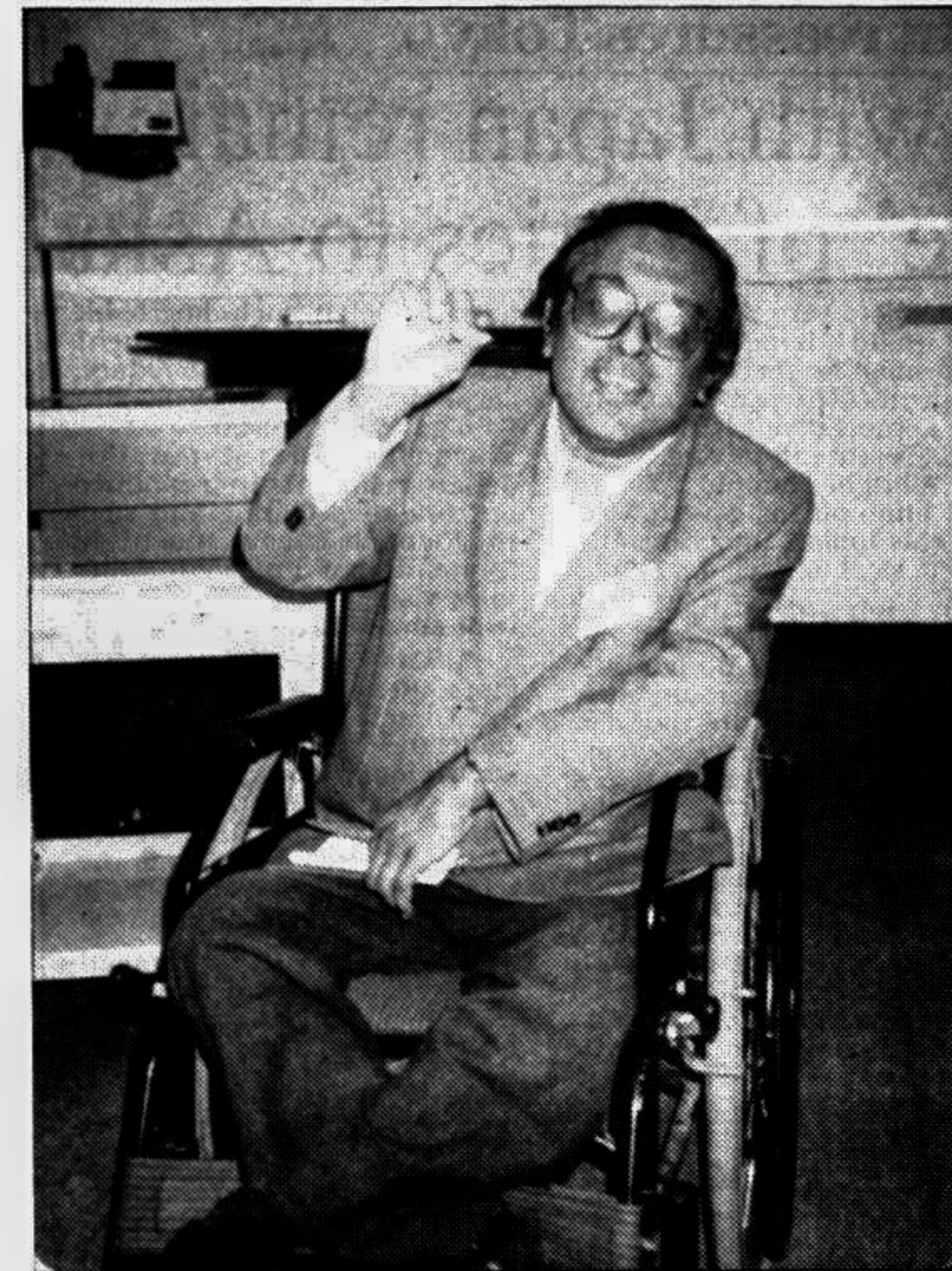
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LAW WATCH

Fourteen Detenues Set Free in 6 Months

DURING 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 detainees 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 detainees.

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 its Unit Offices in 13 districts of the country.