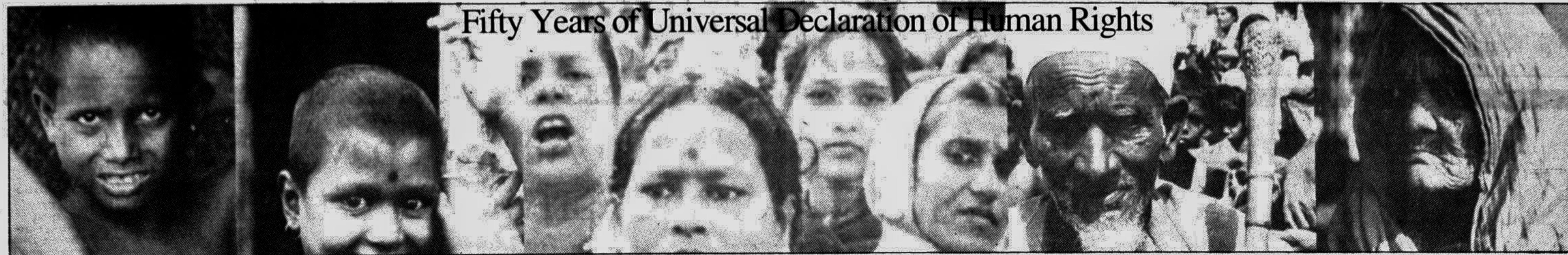


FOCUS

Law and Our Rights

Fifty Years of Universal Declaration of Human Rights



Search for a New Universality

by Adilur Rahman Khan

The people of the Pacific islands did not have any remedy against the French nuclear testing. People of the relatively smaller countries of South Asia do not know where to seek redress to protect their water and food from contamination brought on by the nuclear tests in Pakistan and India. The children of Iraq could not find any forum to tell their stories of hunger and illness caused by the northern blockade. No one knows how long the international political hypocrisy will continue to resist the birth of Palestine.

After the dissolution of the Soviet Union and the demise of the cold war era, a new political scenario has emerged in the world politics, called 'globalisation'. The onslaught of this globalisation has further aggravated the divisions between the rich and the poor and North and South. On the one hand the globalisation has opened all the opportunities available in the entire world to the richer, dominant countries of the North, known collectively as the G7 and OECD along with their multi-national and trans-national corporations and on the other hand it has brought miseries to the poorer and dominated countries of the South to whom its onslaught has become a form of neo-colonialism.

Uncontrolled capitalism and its global plundering has put the entire world, except for a few beneficiary countries, into a serious socio-political and economic crisis. CNN, Coca-Cola and Macdonald cultures have become predominant cultures in the world. In the name of 'intellectual property rights' most of the indigenous resources — starting from plant seeds to songs — are being patented in the North. Free market economy has made us open our borders for the North but close it for those in the South. The North desires that there should not be a barrier for Northern products entering into the national economies and markets of the South to compete with our local products with their relatively lower prices; ironically, manufacturers from the North searching for cheap raw material, frequently target the South as a good source.

Furthermore, the huge production capacity of the former can easily drive away locally produced items leading to the closure of more and more basic local industry, making millions jobless. There are barriers in the present globalised system for so-called 'export oriented products' entering in the markets of the North. This area of the world applies various quotas and restrictions and tariff barriers on the South — meaning us. For example, the European Community (EC) will not buy any goods which might or will compete with a similar product produced in the EC. The basic principles of free market

economy do not apply to us in the South. The North does not recognise free movement of labour from South to North; however, it recognises the free movement of goods. The people of the world are becoming captive in the hands of a few multi-national and trans-national corporations and their unrestricted activities. There is no mechanism available for controlling or supervising their functions.

The World Bank, IMF, MNC, TNC and all their subsidiary agencies are functioning like the East India Company of the time of the British Raj in India. No human rights mechanism under the present Universal Declaration of Human Rights (UDHR) can be made available to address this onslaught because of its old fashioned (out of fashion?) limited guide lines which only cover the citizens of the nation states but are not designed to address the issues beyond.

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After the demise of the Soviet Era and at the end of the cold war period, many people thought that the arms race would come to an end. However, the world watched with shock and distress as the war-hungry Northern powers and their 'stooges' continued producing and developing machines of death and destruction and spending billions of dollars in the process to modernise them and make them more efficient.

Ever since Samuel P Huntington wrote on the 'Clash of Civilisations' (Foreign Affairs, Summer 1993) in 1993, many Northern countries, including the dominant powers, have taken this article as their hand book and guide of foreign policy. Muslims are now regarded as the communists of the Soviet era' and the present function of NATO is to prepare itself to strike against any future force which might rise in the name of Islam — which, according to them, is a potential threat to Israel and Northern civilisation. They have already reconfirmed their position by striking on the pharmaceutical factory in Sudan and by killing about a million innocent men, women and children in Iraq.

The North should understand and keep in mind that human history is the history of

Y 1995, p.142). This is total injustice and all the human rights mechanisms, including the UDHR, which only address the issues of human rights and disparity of nation states have become redundant at this present situation.

It is to be noted here that when I speak about the North, I include the 'North' people and mechanisms in the South and when I speak about the South, I include the 'South' people living in the North. For example, General Suharto was the 'North' in the South and for many years the Irish people were the 'South' people in the North.

The World Bank, IMF and their related organisations and projects have failed to reduce human misery and poverty in the poorer South. This has put a big question in the minds of many about the original intention of these institutions, since almost half the countries of the world are facing serious debt crisis. In many countries, the World Bank and IMF act as 'super governments' and compel the respective state governments of nation states to act according to their will.

The xenophobia of the North has contributed to the emergence of neo-fascist organisations in Western Europe who are now fanning the flames of hatred against the minority Muslims and the prolonged inaction of powerful Western nations have allowed the Serbs to cause acts of genocide in Bosnia and Kosovo against people identified as being Muslim (Huntington).

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Selective use of the present instruments of human rights and the lack of scope to address the basic needs of the people — food, water, shelter and other resources globally — has prompted many to search for a new 'universality' under a new declaration of human rights, and indeed of emphasis, to the basic principle of equality and non-discrimination as regards the enjoyment of all the rights and freedoms set forth in it. Everyone is entitled to the rights without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Articles 3-21 of the Declaration set forth 19 traditional civil and political rights. Article 3, which introduces Articles 4 to 21 is considered as a cornerstone of the Declaration. For it proclaims the right to life, liberty and security of person essential to the enjoyment of all other rights. On the other hand, Articles 22 to 27 of the Universal Declaration of Human Rights recognize 6 economic, social and cultural rights. Article 22 is another cornerstone of the Declaration which introduces Articles 23 to 27, because, the Article declares, inter alia, that everyone, as a member of society, is entitled to

recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction. In fact, the adoption of the Declaration is one of the greatest achievements of the United Nations as in less than two years, the organization had been able to reconcile the clashing ideologies of Member States regarding the contents of the Declaration.

by Dr M Ershadul Bari

HUMAN Rights are universal, salient, inalienable and inviolable rights of all members of the human family which primarily the states are to recognise and ensure for their citizens by providing a well-refined procedure. "Human rights and fundamental freedoms are the birthright of all human beings."

The General Assembly of the UN adopted and proclaimed the Universal Declaration of Human Rights — the first part of the International Bill of Rights — on 10 December, 1948 — a little more than three years after the entry into force of the Charter of the United Nations on 24 October 1945. The Declaration was adopted without dissenting vote. While 48 out of 56 members voted in favour, the whole of the communist block (Byelorussia, Ukraine, the USSR, Czechoslovakia, Yugoslavia, Poland) Saudi Arabia and South Africa (in total eight) abstained in the vote. Each year since 1950, the anniversary of the adoption of the Universal Declaration of Human Rights

the economic, social and cultural rights which are indispensable for human dignity and the free development of personality. Furthermore, it suggests that these rights are to be realized through national effort and international co-operation and in accordance with the organization and resources of each state."

The Universal Declaration of Human Rights, with which began the real history of human rights at the level of international law, is the basic international statement of the inalienable and inviolable rights of all members of the human family. The General Assembly on 10 December 1948 proclaims the Declaration as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and by progressive measures, national and international, to secure their universal and effective

the General Assembly and the Security Council invoked the Universal Declaration of Human Rights in their resolutions or decisions as a yardstick to measure the degree of respect for, and compliance with, international human rights standards. Within the five months of the adoption of the Universal Declaration of Human Rights, in 1972, the Council in a resolution condemned repressive measures which had been taken against African labourers in Namibia and called upon the Government of South Africa "to end immediately these repressive measures and to abolish any labour system which may be in conflict with the basic provisions of the Universal Declaration of Human Rights." In this resolution it further called upon all states whose nationals and corporations were operating in Namibia "to use all available means to ensure that such nationals and corporations conform; in their policies of hiring Namibian workers, to the basic provisions of the Universal Declaration of Human Rights."

Now it "is like a brave banner flying from the highest tower in the world which no one can ignore" and its political authority is second only to the Charter itself. The Universal Declaration has become the *Magna Carta* of humankind. The standards of the Universal Declaration of Human Rights have become a guiding star to international jurisprudence and the high tone of its exhortation continues to influence national policies and their legal applications."

on 10 December is observed internationally as Human Rights Day, designated so by the General Assembly.

The Universal Declaration of Human Rights, which consists of a preamble and 30 Articles, is based on the philosophy that "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. The Declaration gives pride of place, and indeed of emphasis, to the basic principle of equality and non-discrimination as regards the enjoyment of all the rights and freedoms set forth in it. Everyone is entitled to the rights without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

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upon every nation "to promote, in recognition of the paramount importance of preserving the dignity and worth of the human person, full freedom for the peaceful expression of political opposition, full opportunity for the exercise of religious freedom and full respect for all the other fundamental rights expressed in the Universal Declaration of Human Rights." Later, on 28 November 1961, the General Assembly was resolution 290(iv) of 1 December 1949 entitled "Essentials of Peace" in which the Assembly called

Influence on Certain Declaration

Since the adoption of the Universal Declaration of Human Rights in December 1948, it has been referred to in some statutes, agreements and declarations. The special Status annexed to the Memorandum of Understanding of 5 October 1954, regarding Trieste provided that "in their administration of their respective areas, the Italian and Yugoslav authorities shall act in accordance with the principles of the Universal Declaration of Human Rights." This was for the first time an international agreement made the Declaration part of its operative provisions. The Declaration on the Granting of Independence to Colonial Countries and Peoples, which was adopted by the General Assembly on 14 December 1960 (by eighty-nine votes in favour, none against and nine abstentions), provides

"the racial policies being practised by the Government of South Africa are flagrant violation of the Charter of the United Nations and the Declaration of Human Rights and are totally inconsistent with South Africa's obligations as a Member State."

On 27 October 1966, the General Assembly took a resolution terminating the League of Nations Mandate of South Africa over South-West Africa on the ground that it had "been conducted in a manner contrary to the mandate, the Charter of the United Nations and the Universal Declaration of Human Rights."

The Security Council also invoked the Universal Declaration of Human Rights in its decisions, particularly those relating to the situation in Southern Africa. On 4 December 1963, the Security Council adopted a resolution requesting the Government of South Africa "to

in the next episode the writer will analyse the influence of the UDHR on other aspects.

The writer is Professor and Dean, Faculty of Law, University of Dhaka.

Celebration, for What?

by Ekram Kabir

When human dignity and social justice are subjected to harassment and intimidation, they also lead, along with other rights-related issues, to overall degradation of human rights. And this is when, we find the half-century celebration of the universality of the Declaration futile.

THE importance of human rights is felt when one right is violated, otherwise the hue and cry about 'human rights' in Bangladesh is an apparent hype.

So, what are we celebrating? A 50-year anniversary, or the achievements of the last half-a-century? True, the world said 'never again' to the atrocities of the Second World War and declared in 1948 that all human beings, wherever they live and whoever they are, have rights that must be respected in all circumstances.

Although the United Nations, for that matter the international community, has inspired some exemplary discords since then, yet enough destruction has distressed the human race with 100 more wars after the World War II. To the advocates of human rights, despite some setbacks, human rights have steadily marched forward and the Declaration, still today, stands unrivaled among the instruments men and women use to measure the way governments treat their citizens. But there are some serious questions to be asked: where will we be 50 years from now? Will we still carry the weight of prejudice, intolerance, and injustice of the last 50 years on our backs?

Human rights are very difficult to define because the idea of human rights is very complex depending on global cultural diversity. The latest issue of the TIME magazine says: "For the industrialised West, expanding exports to China seems to be more important than defending the human rights of its citizens. Doesn't this policy sound a bit unkind? However, according to optimists, it's possible to establish some broad criteria as

far as the rights are concerned. Broadly speaking, human rights revolve around basic civil liberties: people must have the right to dissent, to not fear persecution because of their social, economic, cultural, ethnic, or religious status.

Well then: how do human rights differ in developing and developed countries? The answer may, again, be: "they don't!" Basic rights — human rights — are not dependent on a country's level of economic development. What this reveals is that a huge portion of population doesn't enjoy the most basic socio-economic rights.

In Bangladesh, unlike the industrial societies, rights here assume different degree. The rights to food, shelter, education, healthcare are the main concern here which with a holistic, integrated approach demands an urgent and equal attention to the economic and social rights of the people. For majority here stagger under the poverty line. In spite of some socio-economic progress in a couple of sectors over time, yet the majority don't enjoy those basic rights. Poverty is so severe here that the poor have been captivated in recent form of slavery, like "deprived labour", "child labour" and "child prostitution", which is also one of the direct causes of the cruelty to women labourers in some sectors of our national economy. Women and children's rights can't be endorsed unless especially the less powerful and less prosperous?

The answer? Well, the existing global system which is still evolving has proven to be unjust and unfair to the majority of the human race. Because the global economy is still controlled and managed by a few elite, corporate bodies and states located in the North. They have done their homework to ensure that their interests would be protected and enhanced even if it's to the detriment of the rest.

Human rights violations do occur, with alarming frequency. The difference is that people know that such actions are wrong, and, more importantly,

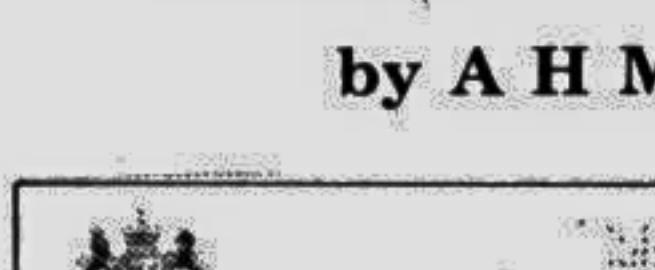
the law Week was divided into 14 sessions. Except the inaugural and the valedictory session there were as many as

LAW WATCH

The British Bangla Law Week 1998

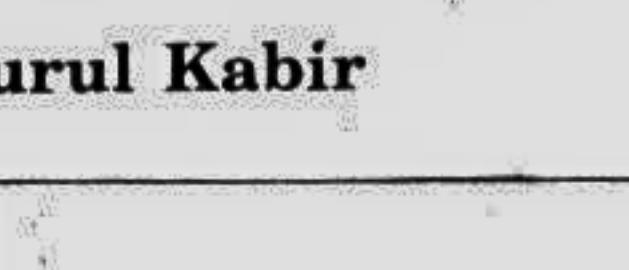
A Renewal of Commitment towards Human Rights

by A H Monjurul Kabir



BRITISH BANGLA LAW WEEK

29 Nov - 5 Dec 1998



The Constitution of

The People's Republic of Bangladesh
