

New thinking on human rights
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REFLECTING ON THE LAW
By SHAD SALEEM FARUQI

Compliance with human rights by a country must be examined both as to domestic conduct as well as international conduct, and theory must always be read in the light of practice.

HUMAN RIGHTS DAY is approaching and many organisations worldwide are putting forth their views on this noble, transcendental quest.

A few weeks ago, the Fourth Bei-jing Forum on Human Rights enunciated a bold Third World perspective.

Last week, a Malaysian NGO co-sponsored The People's Charter to Create a Nonviolent World.

Scholars at the Beijing Forum pointed out that human rights were not born in the crucible of any particular culture or civilisation.

All cultures, religions and regions have a concept of the sacredness of human life and of some common aspirations and needs.

There is universal acceptance that humans are entitled by birth to certain inalienable rights.

These rights do not depend on the charity or generosity of the state but are inherent in the human condition.

In the human rights discourse around the world, there are many commonalities, shared beliefs, core ideas and basic elements. These must be highlighted and honoured.

However, though the idea of human rights is universal, the substantive content of human rights may vary from society to society and from time to time.

As we move from the core of the doctrine to the fringes, cultural, religious, economic, political and historical differences become relevant.

Priorities begin to vary. Value pluralism manifests itself. Context begins to determine the content.

The ideal equality of nations and people requires that these diversities and differences be recognised and allowed to find expression.

The richness of the human rights discourse has manifested itself in the analysis of human rights into many conflicting or overlapping categories.

Among them are:

> The first generation civil and political liberties. These are referred to as the "negative liberties" which thrive best if there is non-intervention by the state.

> The second generation socio-economic rights or the "positive liberties" which require vigorous, affirmative action by the state to create the socio-economic conditions in which civil and political liberties may flower.

> The third generation development rights.

> Individual rights versus collective and communitarian rights.

There is universal agreement that the eradication of absolute poverty is necessary for the realisation of human dignity.

However, there is no universal agreement on the path to the goal of social amelioration.

To most Western observers, electoral democracy is the surest catalyst for the evolution of a regime of human rights.

Along with political democracy is the instrumentality of a free market economy.

Others feel political democracy and a free market economy do not always result in economic democracy and socio-economic justice. Various models of "social democracy" and "welfare state" are put forward as alternatives.

There are differences of opinion about whether the government alone should be responsible for supplying the welfare net or whether the family and the community must play a role to help their kith and kin.

Traditions and religion can be harnessed to involve the community in kinship welfare.

It is also agreed that without enforcement, human rights have no practical value. Rights without remedies are like lights that do not shine and fires that do not glow.

Traditional reliance on judicial remedies is inadequate because of the weaknesses of the judicial method and the unbearable expense for the development of Western style judicial institutions, hierarchies and methods.

Attention must therefore turn to development of remedies that are informal, inexpensive and expeditious.

There are many threats to human rights.

Among them are poverty and lack of human rights education. Along with state institutions, there are many private, religious and social centres of power that violate human rights.

Multi-national corporations often act like a state within a state.

The pervasiveness of Western global dominance in the economic, political, cultural, communication and educational fields is not always acknowledged.

Rating institutions like Moody's exercise vast extra-territorial influence over a government's economic policies.

Global institutions like the World Bank, the Security Council, the International Monetary Fund and the International Criminal Court consistently act to preserve the unfair advantages for the West.

Some aspects of globalisation, notably the patents regime and the selective way in which the war against terrorism is being waged, are deeply destructive of the rights of the peoples of Asia and Africa.

Realisation is growing that human rights are an evolutionary process.

New claims, demands and expectations are emerging.

The human rights theory must remain abreast of the felt necessities of the times.

We must be cognisant of the problems from environmental degradation, pollution of the rivers, de-forestration of traditional lands for "development" and the inequitable way in which the benefits and burdens of development are shared.

The problems of an ageing population and the right to privacy in an age of electronics call for attention.

In evaluating human rights, we must realise that human rights are not a destination but a continuing journey.

Nations must be judged by their direction and by their progress.

Theory must always be read in the light of practice.

Compliance with human rights by a country must be examined both as to domestic conduct as well as international conduct.

The Third World must not shy away from articulating its own concept or concepts of human rights.

The institutions, methods and procedures for the realisation of human rights in Asia, Africa and Latin America must reflect the priorities, peculiarities and existing resources of each country.

Third World countries must seek to banish the idea that human rights are incompatible with Eastern traditions.

They must articulate their problems, challenges and accomplishments. They must combat distortions and lies.

They must, if need be, reciprocate the "ranking exercises" of some Western nations that selectively evaluate the human rights record of Third World nations.

Throwing stones is a game two can play.

The significant link and occasional conflict between human rights and human dignity must be studied.

Human rights must go hand in hand with duties to the family, to the community, state and all humanity.

Shad Saleem Faruqi is Emeritus Professor of Law at UiTM and Visiting Professor at USM

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