

And justice for Ruchika

HARYANA CHIEF Minister Om Prakash Chautala is a man of strong likes and dislikes. He doesn't trust the Central Bureau of Investigation because he claims to be a 'victim' of the CBI's 'history' of infamy, which includes the framing of false charges. That is why he has decided to defend his Director General of Police, S.P.S. Rathore, who will not quit though he is facing a CBI chargesheet involving molestation of a teenage girl a decade ago. Indeed, this is a shadow of disgrace from which even the Chief Minister cannot escape, however thick-skinned his administration might be despite a public outcry. *AP/MS-10*

This is no ordinary story dug up from the forgotten files of the Haryana police. This is an alleged crime, which if allowed to go unpunished, would send a signal of distress to all parents with young daughters and sons that when it comes to the police, especially its top guns, their children can be the victims of anything — molestation, torture, registration of false cases and even abetment to suicide. And especially when a Chief Minister thinks nothing of giving a clean chit to the accused. *H K*

The trauma began for 14-year-old Ruchika Girhotra when she complained that she was molested by Mr Rathore, then a senior police official, at Panchkula near Chandigarh on August 12, 1990. The subsequent ordeal ruined her and her family. It ended with her suicide three years later. The three intervening years were hell. Her father had to hide because of the fear of the police. Her 14-year-old brother was hounded by the police, obviously to terrorise the family into submission. In just about one year after 1992, the police registered six FIRs against the young boy for auto thefts which were declared null and void by the court. It was an Orwellian nightmare which devastated Ruchika's family. Pushed to the brink, she committed suicide. Why the CBI in its chargesheet chose to leave the charge of abetment to suicide is a mystery. Why did Ruchika commit suicide if it was not because her whole world had fallen into pieces? It was the daily humiliation and the stark realisation that the lives of ordinary citizens are of no account to the police which perhaps compelled her to end her life. Now that the National Human Rights Commission has asked the Haryana Government to divest the DGP of his powers, it's time Mr Chautala rethinks as to who is actually a 'victim', and who stands with the accused. *1*

THE HINDUSTAN TIMES

11 APR 2000

11 APR 2000

When compensation is less

Is compensation all it takes to combat excesses committed by the state?

SIDDHARTH SURESH looks at the role played by the country's premier rights body, the National Human Rights Commission

BAD news came looking for Prabhakar L. Mehta on November 16. On that day, the Enforcement Directorate challenged in the Delhi High Court a National Human Rights Commission (NHRC) decision asking the Centre to pay interim compensation of Rs 50,000 to Mehta. The businessman was allegedly beaten up by ED officials in Mumbai during his interrogation for alleged Foreign Exchange Regulation Act (FERA) violations by his brother-in-law.

A division bench stayed the NHRC's order of September 8, and issued notices to both the NHRC and Mehta. This verdict begs the question: how effective are the NHRC's rulings, how many people get their compensation, and who has the final say in human rights affairs — NHRC or the courts?

Activists feel that the Commission is not doing an adequate job, a point of view that's contested by the NHRC's secretary-general, N.

Gopalaswamy, who feels that the accused has the right to go to a court of law and get a stay on an adverse order.

Ordering compensation to victims of state excesses is one of the most important recommendations of the NHRC. According to the Commission, state governments accept almost 98 per cent of their recommendations, and rarely does a state or institution challenge its verdict.

Since its inception, the NHRC has granted compensation in 598 cases. It has ordered payment of Rs 767,836,34, starting from 1993 up to September 30 this year.

This is a very positive beginning, says Balveer Arora, a political science professor at the Jawaharlal Nehru University. Even though it's not legally binding on the state government to implement NHRC's reports, the fact that something is being done for victims is definitely a break from the past, he feels.

However, there are rumblings within the human rights commu-

nity on the NHRC's role and functioning. For one, activists believe that the commission shouldn't just engage itself with compensation, but try and work on the attitude of law enforcement agencies.

Ashok Agrawal, a Delhi-based lawyer feels that "Compensation is just peanuts." He says, "Are we trying to say that we've set up a tribunal like the motor accident claims tribunal to grant compensation as a remedy to victims of state atrocities? The state seems to be telling its people, we'll continue to oppress you and if you are bold enough to complain, we'll throw some crumbs your way."

Aggarwal also criticised the "bureaucratic manner" in which the Commission functions. "Even as a moral force, the NHRC hasn't functioned in full honesty. It has played the game of the establishment. It tries the patience of complainants by dragging on a case for too long."

Nishant Akhilesh, a People's Union for Civil Liberties activist from Jharkhand, feels that the Commission should be granted more investigative powers. Akhilesh points says that the Commission depends on the accused, which is the state itself in most cases, in its investigations.

National General Secretary of PUCL, Y.P. Chibber, adds, "If there are 100 cases in a day, most of it will be against the police. It is difficult for the NHRC to send its own investigation team, so it has to depend on other agencies. If there's a case against Dhanbad police station, they will first write to the Bihar police, it will then be

passed on to the Dhanbad police station, and it will land in the same police station, if not with the same officer."

Chibber also feels that the government isn't serious about taking consciousness about human rights to the administration. "The attitude of the members should change. Every member of the Commission has to assume the role of an activist. Now, it takes a purely technical view of things." Chibber adds.

The NHRC receives on an average a whopping 100 complaints every day, alleging state excesses of

various kinds. According to the NHRC, 60 per cent of cases are from UP's Meerut division.

Gopalaswamy says it has more

to do with the fact that Meerut is so close to Delhi, the NHRC's headquarters, than anything else.

Gopalaswamy admits a delay in approval. "If there is any genuine case where the state government denies payment, we have the power to approach the high courts or the Supreme Court asking them to help enforcing the recommendations."

The Secretary General illustrates his point that the Commission's orders are not taken lightly: When the Tamil Nadu government challenged an NHRC order to pay compensation in the high court, the court didn't just order the government to pay the amount recommended, but also pay interest. The court also told the government to compensate the NHRC for extra costs incurred on the case.

Beastly tales from Punjab

■ **WHENEVER** Rajeev Ratan (33) visits Punjab these days, he drags his 70-year-old father along, even if it's for a bank promotion test. Rajeev's father, O.P. Bhargava, a retired finance ministry official, says: "Rajeev is now a shattered soul."

■ Ratan was picked up and allegedly tortured on false grounds by the Punjab police. On March 6, 1995, Ratan, who was working as a clerk-cum-cashier in the Shivalik Kshetriya Gramin Bank at Kharwar in Punjab, was taken to the police station for questioning in a bank forgery case. The bank manager, P.K. Bhandari, alleged that Ratan had stolen Rs 3.95 lakh from the bank safe.

■ The SHO, Didar Singh along with two of his constables Paal Singh and Harchand Singh, entered my house without knocking my door. The SHO asked me my name and then dragged out of my house."

■ He continues, "The SHO and police constables stripped me and started beating me brutally. They stretched my thighs to almost 180 degrees and shoved cotton soaked in petrol into my rectum followed by chilli powder. Then they hung me upside down and belted me." The beatings continued till March 12, and Ratan was released only on March 19. The torture dislodged a bone in Ratan's leg, and he now has a steel hip that needs changing every eighth year.

■ Ratan's family approached the NHRC which took up the case and had the policemen who tortured him booked. According to the NHRC findings released on November 6, 1999, "The Ropar police had illegally detained and tortured Rajeev Ratan. The government of Punjab in their response has attempted to cover up the police action." The NHRC team also asked the Punjab government to pay 2.5 lakh compensation and to conduct an in-depth inquiry and initiate criminal proceedings against the police officials charged. While the compensation has been paid, it's up to the government to take action.

■ Ratan now works in the Hindon Gramin bank, Ghaziabad, where he is on deputation. His mother relieved that the policemen were atleast named. "If we didn't get justice I would've believed that there's no justice in India at all."

EXPRESS
FOCUS
SOCIETY

Death of a Dalit

IN THE post-Mandal era of 'social justice', when the Dalit card is being used by all parties for vote bank politics, has there been any tangible social development which gives the community a chance to live with dignity? Or is the same old vicious cycle of humiliation and deprivation being repeated day after day? If the suicide by a Gujarati Dalit farmhand in Vadodara is an indication, then nothing has changed for this 'underclass' in modern India. Look at the story of 30-year-old Ramesh Zaverbhai. He was seeking justice for the indignity suffered by his wife at the hands of upper caste Patels. And what was the crime of his wife? She had gone to fetch water from the common well because the water connection to her village was cut off — an act which promptly resulted in direct retribution. As an example of typically feudal punishment, she was publicly stripped.

Individual Dalit women are often assaulted to teach a lesson to the entire community. Especially if the community dares to demand its constitutional rights. This is an oft-repeated phenomena in Bihar and elsewhere in the countryside. But the irony here is that Ramesh had sought justice from the Social Justice and Welfare Department of the BJP-led state Government after the police refused to register his complaint. The administration, too, rejected his plea, proving that anti-Dalit prejudice is as entrenched in the top echelons of the establishment as in the lower levels. Unable to bear the humiliation of his wife, Ramesh killed himself.

It is not only his story. Atrocities on Dalits have become as routine as the State's indifference. In the first week of November, a *sarpanch* in the Bharatpur district of Rajasthan smashed the legs of a Dalit because he had asked for his daily wages. In October, Thakurs in the Barabanki district not only mutilated the bodies of six Dalits, they also burnt their faces with acid. A Dalit woman was killed in early October in Jaunpur district of UP because she had objected to her daughter being teased by local goons. Recently, the National Human Rights Commission asked the Tamil Nadu Government to compensate scores of Dalits because of a police assault — two years ago — in November, 1998. Clearly, although the Dalit card is at the centre-stage of power politics, the community is still a social pariah. Dalits remain as outsiders in the largest democracy, brutalised and damned.

THE HINDUSTAN TIMES

5 DEC 2000

The Supreme Court & human rights

By Balakrishnan Rajagopal

HD-12
6/12
THE REPUTATION of the Indian judiciary in international human rights circles is usually quite sound. It is seen as having pioneered public interest litigation and as having contributed significantly to the growth of human rights jurisprudence in crucial areas including criminal procedure, environment and economic, social

no member of the upper castes or the middle/upper classes needs to fear the loss of his home and entire community due to a development project in India.

Had the judgment been a carefully circumscribed one that focussed on the issues raised by the petitioners the court might have avoided giving the impression

protests are not taken seriously anymore in the country. Indeed, its previous activism in the area of economic and social rights or rights of detainees arose partly from the recognition that the court must do its part to alleviate the most oppressive conditions of existence for the population before they turn to extreme measures. By abandoning this crucial position, the court has shown itself to be against human rights.

This anti-human rights position would not have been surprising 20 years ago when courts around the world were generally more reluctant to entertain human rights challenges to development projects. But it simply bucks contemporary global trends and standards.

For example, the judgment in the Narmada case can be usefully contrasted with a recent verdict of the South African

all rights in the Bill of Rights were inter-related and mutually supporting. It said the question was whether the measures taken by the state to realise the rights afforded by the Constitution were reasonable. To be reasonable, the court pointed out, the measures could not leave out of account the degree and extent of the denial of the right they endeavoured to realise, and those whose needs were the most urgent and whose ability to enjoy all rights was most in peril must not be ignored. Importantly, "if the measures, though statistically successful, fail to make provision for responding to the needs of those most desperate, they may not pass the test of reasonableness".

Judging by this yardstick, the Indian Supreme Court's decision in the Narmada case appears to fall far short of international human rights norms.

With its judgment in the Narmada case, the Supreme Court seems to have abandoned its established role as the protector of the human rights of the most vulnerable in society.

and cultural rights.

Thus, the judgment in Olga Tellis vs. State of Bombay is often cited on United Nations human rights fora and in academic publications as evidence of the court's activist role in the area of economic, social and cultural rights. Indeed, it is not too much to claim that the Supreme Court is seen as one of the most influential expounders of human rights, especially in this area.

Therefore, its recent decision in the Narmada case raises serious questions about the extent to which this well-deserved reputation may be tarnished. If implemented, the decision is likely to lead to a massive displacement of more than 2,00,000 people in the Narmada valley, thus earning the infamous distinction of being perhaps the largest court-sanctioned, forced eviction in history. In addition, the displacement will violate various human rights of the people of the Narmada valley including their right to housing, shelter, livelihood and cultural cohesion as a community.

Further, the decision may also run foul of the international legal norm against collective/mass population transfers against the people's will, and given that a very large percentage of the affected are also tribals and Dalits, this 'development cleansing' may well be seen as ethnic cleansing in disguise. The reality is that

that it was taking sides openly in a bitter ideological conflict over the nature and meaning of development, and the place of costly infrastructure projects such as dams in it. Instead, it launched into the most partisan defence of dams, defying the overwhelming evidence that is globally available against the feasibility of large dams. The sense one gets from reading the judgment in the Narmada case is that for the court, the issue seems to have become one of developmental nationalism, the importance of modernisation and the ability of India to catch up with the West.

This stance has also been reflected in the comments by the Union Home Minister, Mr. L. K. Advani, in the aftermath of the judgment, that those who criticise projects such as Narmada are foreign agents. Besides the fact that such attitudes have the potential to generate dangerous consequences for those who advocate peaceful criticism, the court itself seems to have really stepped over the line from the legal to political terrain.

More importantly, the court seems to have abandoned its established role as the protector of the human rights of the most vulnerable in Indian society. Here was perhaps one of the most significant peaceful human rights movements in post-Independence India and the court's decision has sent the signal that peaceful

If the goal was to defend the possibility of India attaining modernisation and equality with the West, that is hardly likely to come about by showing the world that we are becoming less civilised.

Constitutional Court — Government of R.S.A vs. Grootboom — given on October 4, 2000. The question involved the enforcement of the right to housing and shelter under the South African Constitution, for a group of children and adults living in appalling circumstances in informal settlements, whose homes were forcibly removed and who then had to settle in desperation on a sports field and in a community hall nearby.

In a unanimous decision, the court held that the Constitution obliged the state to act positively to ameliorate the plight of the hundreds of thousands of people living in deplorable conditions throughout the country. It must provide access to housing, health-care, sufficient food and water and social security to those unable to support themselves and their dependants. The court stressed that

Numerous other examples can be provided from around the world and they clearly show that several countries take their responsibility to protect human rights very seriously — particularly economic, social and cultural rights which are of critical importance to the survival of vast impoverished and oppressed populations in non-Western countries. The Indian Supreme Court, by going against this trend, has shown that it is losing touch with human rights. If the goal of the court in this judgment was to defend the possibility of India attaining modernisation and equality with the West, that is hardly likely to come about by showing the world that we are becoming less civilised.

(The writer is a professor and Director of the Program on Human Rights and Justice at the Massachusetts Institute of Technology, U.S.)

THE HINDU

6 DEC 2000

Israeli rights body slams govt for excessive force

REUTERS
JERUSALEM, DEC 7

989 8/12

AN Israeli human rights group said on Wednesday that Israel was using excessive force in trying to quell a Palestinian uprising and that the Palestinian authority did not seriously try to stop children participating in unrest.

In a report calling for an international inquiry into the use of force by both sides in two months of violence, the group B'Tselem said 73 Palestinian minors aged 17 or under had been killed by Israeli troops between September 29 and December 2.

"Israel uses excessive and disproportionate force in dispersing demonstrations of unarmed Palestinians," it said.

Israel had not developed non-lethal methods to disperse demonstrations, said the group, also known as the Israeli Information Center for Human Rights in the Occupied Territories.

"As a result soldiers had only rubber-coated metal bullets and live ammunition, which caused many Palestinian casualties and many injuries to medical teams and journalists," it said.

It added: "The Palestinian authority does not make serious efforts to prevent children from participating in demonstrations, despite the grave danger."

The Israel Defence Forces (IDF), which says it acts only in self-defence, said in a statement that B'Tselem was using inappropriate criteria to assess the Army's response to the unrest.

"The present situation is one of armed conflict between Israel and the Palestinians. Accordingly, the criteria used to examine the characteristics of the Army's activities are not police criteria, but the criteria of war," the statement said.

INDIAN EXPRESS

8 DEC 2000

Amnesty lambasts Japan on rights treaty

By F.J. Khergamvala

TOKYO, DEC. 8. The head of the global human rights watch-dog body, Amnesty International called on Japan today to move beyond mere lip-service on human rights, both at home and in this part of Asia. Amnesty (AI) was particularly harsh on Japan not yet signing the treaty setting up the International Criminal Court.

Mr. Pierre Sane, the Secretary-General of the London based body, told foreign correspondents here, "We have met senior officials here in Tokyo, but get no clear answer (on signing the treaty setting up the International Criminal Court) except that it is not consistent with domestic law." Mr. Sane added that Japan's reluctance to sign the treaty is morally inconsistent with the positions of 100 countries and certainly inconsistent with its ambition to become a permanent member of the United Nations Security Council. "Only one other country has refused to sign, that is the U.S.," he added.

The treaty, which only 20 nations have ratified, as against the minimum requirement of 60 for it to go into effect, has a sanctions deadline for December 31 this year. Mr. Sane questioned Japan's explanation, arguing that "of course, it is inconsistent with domestic legislation. It is inconsistent with many countries' legislation, but when any international treaty

is signed, that is what governments are expected to do," he said, to enact fresh legislation or modify existing laws.

Mr. Sane was speaking on the occasion of the launch of a global "Campaign against Torture of Children." Beginning a 14-month long awareness blitz, AI released material documented with pictures and anecdotal details in a book called "Hidden Scandal, Secret Shame." It draws attention to children being enlisted in domestic conflict, being specifically targeted to create an atmosphere of terror and is scathing about conditions in many countries.

AI's documentation on "Japan: No advance on human rights" drew a considerable amount of questioning from the media. The death penalty, the secret execution of prisoners, the great reluctance to provide a haven to refugees and asylum-seekers and Japan's encouragement of the military junta in Myanmar came in for special attention. The report was drafted with substantial input from Dr. Rajiv C. Narayan, now a researcher of the East Asia Team as well as the Tokyo crew of Mr. Mitsuhiro Wada, both of whom answered several questions on events long verified independently by journalists.

Mr. Sane asked Japan to re-introduce a 1989-1992 moratorium on the death penalty, before abolishing it, adding that the moratori-

um was lifted at a time when the public was particularly exercised over a crime and so nobody questioned the logic of calling off the moratorium. "Executions in Japan tend to take place in December, when the Diet is not in session, so we decided to come here and make as much noise as possible." The November 30 execution of three prisoners and Japan's abhorrent practice of executing people without informing relatives "is an affront to the dignity of the human being," said AI. Every Minister feels he is leaving office without doing his own quota, said Mr Sane, in a reference to the recent Cabinet reshuffle which was announced a week after the executions.

Amnesty has also questioned how the former Peruvian leader, Mr. Alberto Fujimori found long-term sanctuary in Japan so rapidly, whereas genuine cases of asylum-seekers were subjected to great distress like detention in "landing prevention facilities." Between 1994 and 1997, only one out of 516 asylum-seekers was granted refugee status. Mr. Sane said if a trial of Mr. Fujimori begins, either in Peru or in Japan, Amnesty will not directly testify but will provide to prosecutors its very detailed archives of human rights abuses in Peru during the 10 years under Mr Fujimori. The new Government of Peru has just issued a subpoena for Mr. Fujimori to return, failing which it will seek extradition.

THE HINDU

9 DEC 2000

Rights panel rap on child rape

FROM OUR SPECIAL
CORRESPONDENT

New Delhi, Dec. 14: The National Human Rights Commission feels that the country's laws to deal with child rape and child abuse are inadequate.

Justice J.S. Verma, chairperson of the human rights body, said here today that "lack of legislation was a major hurdle in dealing with these cases". He was speaking at a workshop organised by the rights panel along with Angaja Foundation, an NGO. The workshop's objective was to sensitise judges, lawyers and police officials on the issue of child rape.

The former Supreme Court Chief Justice said that the definition of child abuse should be very clear and the punishment should be strict.

"The diverse impact of child abuse on the victims is beyond full comprehension of anybody. It leaves a scar in the child's mind, which remains forever. But with increasing awareness of the evil, it has now become easier to work towards its prevention," Justice Verma said. He stressed that prevention was much more desirable than punishment in such cases.

The chairperson believed that more thought should go into legislation dealing with such crimes. He underscored the "depravity" prevalent in contemporary society and spoke about sex abuse in the shelters in Varanasi — an issue which the commission had taken up.

Justice Verma said that in these homes girls between 14 and 16 were regularly abused by their supposed protectors. He added that the woman warden of one such home was involved in these crimes.

Of the three members on the board of the home, two had been found to be involved. Senior public servants and law enforcement officials were also found to be guilty. The commission, which had only carried out a preliminary investigation, has now asked the CBI to carry out a probe.

Delivering the inaugural address, law minister Arun Jaitley said that till only a few years ago no one even mentioned this subject. He referred to a case where even the Supreme Court had declined to believe that a child could be sexually abused by her father.

Though attitudes have changed for the better, such offence continues to be largely under-reported. Conservative homes is one reason. Adults in the family also prefer to sweep

such incidents under the carpet. Jaitley, too, deplored the fact that there was no stringent law to deal with this offence.

THE TELEGRAPH

15 DEC 2000

HUMAN RIGHTS

A New Set Of Challenges

By NR MADHAVA MENON

ADMITTEDLY there are continuing violations of rights and some of them are indeed too serious than before. But, what is significant is that they are not any more suppressed nor ignored either by the state or by the people. They are noticed, condemned and acted upon showing a commitment and capacity not hitherto seen in many parts of the developing world. In celebrating Human Rights Day, we are renewing our faith in constitutional government and conveying the message to all those exercising public power that governance shall be subject to human rights and dignity.

India's record of human rights is something to be reckoned when compared with countries which became independent around the same period. Parliamentary democracy has been sustained almost uninterruptedly for over 50 years. A nation of 100 crores with an electorate of over 600 million has gone through 13 general elections and transferred power peacefully.

CORRUPTION

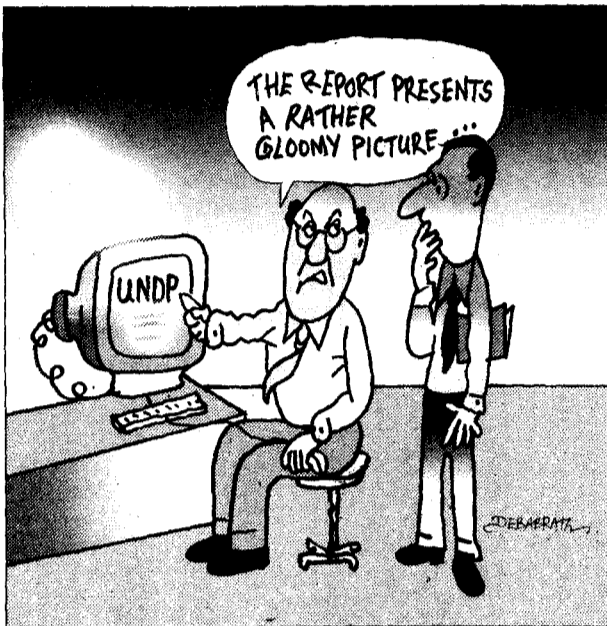
Large sections of society who were kept outside power are now in the seats of power. A certain amount of equality and social justice is very much part of contemporary society. The concept of liberty has been given the widest possible interpretation encompassing human dignity and "due process" of law.

Freedom of expression, association and enterprise has steadily grown under a liberal dispensation. The basic structure of doctrine evolved by the judiciary and endorsed by the people has confirmed the enduring nature of constitutional values of democracy, secularism, rule of law, human rights and limited government. All these are matters in which every Indian can take pride.

This is not to ignore gross violations of human rights which still take place every day. After all, 50 years in the life of a nation is not too long a period to change mindsets and established structures and customs. The question is, are the people vigilant and do they assert themselves with freedom and courage? Are governments generally defensive and do public functionaries react and respond? Does the political establishment fear the power and sovereignty of the people? Is there a culture of rights developing particularly among the marginalised and under-privileged sections? If the answer to these questions is even a qualified "yes", one would argue that we are on the right track and human rights are alive and kicking.

On the occasion of Human Rights Day, it is worthwhile to reflect on the challenges that arise not only from the state and its agencies but also from other centres of power. The mechanisms developed in de-

fence of human rights are found inadequate. We need to acknowledge the new sources of challenge and to seek fresh tools and strategies appropriate to the situation. Some of these threats may be listed here. They are not necessarily given in any order of priority and all of them are casting shadows on all right thinking people.



A few years ago, no one in India could have anticipated corruption in areas like education, religion, sports and entertainment. Today there is no sphere of activity free from corruption. Even noble professions are competing with government departments in range and variety of corrupt practices. There is no estimate of the damage. Even human rights agencies and their enforcement systems within and outside the government are not free from corruption which inhibits development and results in disempowerment of the common man. Human rights become an empty slogan.

The manner in which corruption assumes legitimacy and respectability in contemporary society is one of the greatest threats to human rights today. Because it is non-violent, and not directed against a particular individual, it is not perceived as human rights violation. The very difficulty in conceiving it as a human right violation is the reason for its immunity from conventional systems of control. Human rights activists will be well advised to direct their energies towards fighting corruption.

THREATS

A second set of challenges to human rights arises from science and technology. While technology is the key to development, it is at the same time a threat to human rights as understood today. Man's thought processes are getting confused by the convergence of divergent technologies, the reach and impact of which are still unknown. Information is neither knowledge nor wisdom. While solving the problem of information scarcity, the new technology has created the problem of information glut, adding stress, confusion, helplessness and even ignorance! Today's information is tomorrow's ignorance.

Information overload in a society like ours threatens our ability to educate and empower ourselves. It leaves us, particularly the uneducated and less educated, more vulnerable. For

the poor and under-privileged people, the knowledge society tends to be more a curse than the saviour. This is so because it actually diminishes control over their own lives, while those already better placed are able to strengthen their positions further.

This is not to discredit or to disown the new technology which is revolutionising our lives. The concern is about the impact of information technology on social relations and justice based on established notions of human dignity and rights. It is difficult even to articulate the nature of challenges involved in the new technologies.

A third major challenge arises from the process of globalisation, particularly in the economic sphere. The battle for socio-economic rights has just begun but one finds the movement being overwhelmed by the forces of globalisation and marketisation. Right to food, right to work, right to education and right to health, including the right to a clean environment, are in real danger of going out of reach of the common man.

ALARMING

This scenario is no more an illusion or propaganda; it is a reality for farmers, workers, women, children and weaker sections. The name of the game is competition. No country can command the authority to question, much less to arrest the process under the WTO regime.

We are told that the answer to the problems arising from liberalisation is more liberalisation. Planning and self-reliance are no more good for development. Free trade is the "mantra" and intellectual property is the weapon. Disband the controls and reform the systems, prosperity and progress will follow. Many among us believed the new ideology; the result is not as pleasant as was expected.

The warning signal came after a decade of globalisation from the Human Development Report of the UNDP. The rich benefited the most. The report presents a rather gloomy picture for the under-privileged sections particularly in respect of employment, health, education and food security. If the findings of the Development Report are to be believed, what is in store for a country of India's size and complexity are a bit alarming not only in terms of basic rights but also in terms of integrity and survival.

Everyone by now has learnt from experience that rights will not be offered to anyone on a platter. It is to be won through constant vigilance and continuing struggle.

The history of human rights has been the story of how humanity organised the struggle and what instruments they evolved in the process. It looks as though the nature of struggle has changed radically and the instruments have become muted and counter-productive in the changed situation.

The Author is Vice-Chancellor, WB National University of Juridical Sciences.

NHRC says it wants to monitor Army trials, Govt refuses

GAURAV C. SAWANT
NEW DELHI, DEC 29

THE Government has turned down a National Human Rights Commission (NHRC) request that it be allowed to observe proceedings against Army personnel in cases involving alleged human rights violations.

The Army says that its "time-tested" system is transparent and allowing the NHRC would send confusing signals. "There is no question of permitting multiple authorities to be present when a court of inquiry and subsequent court martial proceedings are underway," highly-placed sources in the Army headquarters said.

However, the NHRC says that the armed forces and public servants should be subject to the same yardstick. "Under Section 19 of the Protection of Human Rights Act (1993), there is a different procedure laid down in respect to investigations into violation of human rights by the service personnel. We have been proposing that the procedure should be the same for both," N Gopalaswami, secretary general of

the NHRC told *The Indian Express*.

"We will ask the Government to reconsider its decision as this has been the consistent plea of the NHRC," he added.

But the Government isn't likely to review its decision because Army officers argue there is little reason to complain. "Recently, an Army captain was given seven years rigorous imprisonment for raping a minor girl in Jammu and Kashmir. In civil courts, the same case would have lingered on but here the punishment was swift," an official said.

Over the past three years, the Army Headquarters has received 593 complaints of rights violations by its personnel. According to an army spokesman, 561 of these complaints were found to be baseless after "detailed investigation."

In only 26 cases, the Army found "prima facie evidence" and 20 of these have been decided. In all, 38 Army personnel were court-martialled and punished while in five cases, the Army took administrative action against the guilty officials, the spokesman said.

CONTINUED ON PAGE 2

NHRC wants to monitor Army trials

The Army claims that a large number of "false rights violation complaints" leaves them bogged down and often these measures are used to delay action or prevent a vigorous approach towards operations.

The Army headquarters has also come out with a formal, standard operating procedure (SOP) for counter-insurgency operations. "The Government is of the opinion that since cases of alleged human rights violations are being investigated expeditiously and appropriate disciplinary action taken against those found guilty, there is no need to amend the existing procedure," an official in the Defence Ministry said.

INDIAN EXPRESS

INDIAN EXPRESS

30 DEC 2000

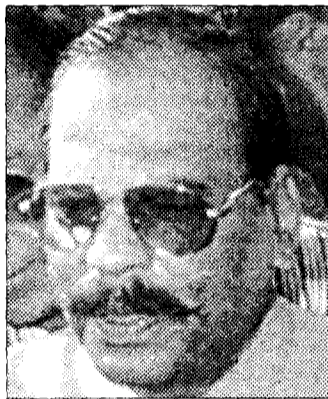
Rathore gets breather as NHRC closes case

BHAVNA VIJ
NEW DELHI, DEC 28

THE National Human Rights Commission (NHRC) has closed the case against former Haryana Director General of Police (DGP) S.P.S. Rathore and other police officials, stating that "no action is called for".

Rathore was accused of molesting 14-year-old tennis player Ruchika while he was heading the tennis association of the state. The teenager had later committed suicide following sustained "harassment and victimisation" of her brother by the state police. It was apparently a way of "pressuring" her to withdraw the case against Rathore. While the girl committed suicide, her brother went into hiding. Her father too left the house and went somewhere in Rishikesh.

The Commission, headed by Justice J.S. Verma, ruled that no action was required in both the as-



S.P.S. Rathore

pects of the case — Rathore continuing as the DGP and "victimisation" of Ruchika's brother Ashu by the Haryana police. The NHRC order, delivered on December 20, states that intimation was received from Chief Secretary, Haryana, saying that Rathore had ceased to function as the DGP, "so no further action in that respect is called for".

The NHRC had issued notices

to the government of Haryana, Rathore and other police officials while Rathore was continuing as the DGP despite being chargesheeted by the Central Bureau of Investigation (CBI) for molesting the teenager. State Chief Minister Om Prakash Chautala had been issuing statements in Rathore's support, who stubbornly refused to step down.

Regarding the "harassment" of Ashu, the NHRC ruled that no action was called for since the Punjab and Haryana High Court was looking into it. "Media reports indicate that the High Court of Punjab and Haryana is seized of the matter," the order of the Commission stated.

The High Court had taken suo moto cognisance of the case of Ashu's "harassment" by the police following a report in *The Indian Express*. There is nothing more that the NHRC can do in the matter, said joint registrar (law division) of the Commission.

INDIAN EXPRESS

29 DEC 2000

NHRC to discuss 'fake encounter'

SANJAY K SINGH
STATESMAN NEWS SERVICE

CIVIC BOSS UNDER SHAMAL CLOUD

NEW DELHI, Dec. 28. — The National Human Rights Commission has called an "urgent meeting" tomorrow to discuss the police action in the Batla House encounter.

An NHRC member told **The Statesman** today that the meeting, to be chaired by the NHRC chairman, Mr Justice AS Verma, will decide on whether or not to take suo motu cognisance of the allegation that it was a fake encounter.

On 26 December, a Special Cell team gunned down Lashkar militant Abu Shamal at a first-floor flat in the Batla House area of south Delhi. The police team claimed that Shamal fired at them with an automatic weapon when they tried to enter the flat.

Residents of the area, however, say police had murdered Shamal in cold blood.

The NHRC member said: "The meeting is to decide the course of action against Delhi Police."

The report of the inquiry into the incident, being conducted by the DCP, south district, Mr P Kamaraj, is yet to be submitted to the NHRC. Despite the lapse of over 60 hours, police are yet to make a statement on the inconsistencies in its version.

Shamal's neighbours say police took him away around 1 a.m. and returned with him at 5 a.m., after which the shooting took place. Police claim they were watching the house from 1 a.m. When Shamal came in at 5 a.m., he shot at them when they tried to enter the house and

NEW DELHI, Dec. 28. — Delhi Police will question the Okhla municipal commissioner, Mr Asif Mohammad Khan, for his alleged links with the slain Lashkar-e-Taiyaba terrorist, Abu Shamal.

At a press conference today, DCP (Special cell), Mr Ashok Chand, said police would question Mr Khan if he was in any way associated with the activities of the militant allegedly involved in the Red Fort shootout.

Reacting to reports that the encounter in which Shamal was killed was a fake one, he said: "Abu Shamal belonged to Lashkar and was from Lahore. There's no doubt about his identity."

"We are trying to negate the rumours spread by anti-nationals that the encounter was fake. We have also questioned some people in this regard," said DCP, south Delhi, Mr P Kamaraj, at the press briefing.

He said police had reports that some people called up newspaper offices and planted the story. "There seems to be a deliberate attempt to create tension in the capital."

Local residents had gheraoed the Jamia Nagar police post yesterday, saying police had killed an "innocent" man from Amroha, UP, in the "fake encounter". Abu Shamal's post-mortem will be conducted tomorrow.

Senior police officers said two neighbours of the slain terrorist, Sajid and Mansoor Khan, had been detained only briefly. "Even they were suspicious of Ashfaq and Shamal's movements and had informed the house-owner about this," Mr Chand said.

The third neighbour, Rashid Khan, who allegedly introduced Shamal to the owner, is absconding. — SNS

that they shot back in defence.

Apart from the residents' version of the timing and the sequence of events, police cannot explain why Shamal did not use the grenades he had and also why no policeman got hurt though Shamal fired 28 rounds.

Barely four months ago, four policemen had been beaten to death a man in Seelampur who was bringing his child home from school. Two of the accused are yet to be arrested. Then, even the police commissioner had expressed dissatisfaction with

the force.

The force's image also took a beating this year when the Padmanabhaiah Committee on police reform — constituted by the home ministry — expressed concern over police psyche. The report has been put on a backburner, admit senior officers.

A former director of the Bureau of Police Research and Development, Mr GP Joshi, who now manages an NGO working in the field of human rights, expressed concern about the "the growing criminalisation of police".

Ashfaq's ration card vexes cops

STATESMAN NEWS SERVICE

NEW DELHI, Dec. 28. — Police are investigating how Ashfaq, a Pakistani national, acquired a valid ration card and a driving licence.

DCP Mr Ashok Chand today said Ashfaq had been provided Rs 35 lakh through hawala channels, of which he used Rs 6 lakh to set up the computer centre he ran as a front in Okhla. The hawala operator who supplied the money has been traced to the Walled City, he said.

Ashfaq also used a part of this money to set up safe hideouts in Okhla, said Mr Chand. His wife Rehmana only learnt of his real activities after they were married on 8 December.

Police said she, however, cooperated with the militant for financial remuneration when she learnt that he was a militant. "He had paid her Rs 50,000 as Nikahnama and also deposited around Rs 2.5 lakh in a bank for her."

The DCP said the call to an international news agency in Srinagar on the night of the Red Fort shootout was made from Delhi by one of the four militants who got away. "We have found that the call was also made from the Walled City."

THE STATESMAN

29 DEC 2001

Veerappan issue: Emissaries ask NHRC to help

NEWS & AGENCIES
CHENNAI, OCT 30

the release of 51 TADA prisoners in Karnataka.

In a memorandum to the NHRC, the three emissaries said the Commission would be able to highlight the human rights violations that the present case involved, and the need to uphold the common order of the TADA court (dropping TADA charges) to enable the detainees' release on bail. The plea made by retired police officer Ab-

dul Kareem in the SC against their release, essentially involved the human rights of these prisoners languishing in jail for years without trial and others killed in "encounters" and those who had suffered torture and sexual abuse in custody, Nedomaran, Prof Kalyani and G Sukumaran said in the memorandum.

The emissaries said if the NHRC implanted itself in the case, it would give an opportunity to the

apex court to allow resumption of the stalled NHRC panel inquiry into human rights violations by the special task force of Tamil Nadu and Karnataka, constituted to nab Veerappan. Recalling the numerous petitions presented to the NHRC by human rights bodies in the last few years for an investigation into allegations of "disappearances, torture, rape and sexual abuse" of tribals at the hands of the

STF, the emissaries said not intervening in the SC was a "statutory lapse" on the part of the NHRC.

The NHRC had earlier constituted a two-man panel comprising retired High Court judge Justice Sadashiva and former CBI director C V Narasimhan, to probe the charges of atrocities. But it had been stayed first by a single judge and then a division bench of the Karnataka HC, they said.

Rights panel asks Army to pay Andhra farmers

STATESMAN NEWS SERVICE

NEW DELHI, Nov. 2. — The National Human Rights Commission has asked the defence ministry to pay Rs 12 lakh to farmers in Hyderabad who were evicted by the Army.

Taking suo motu cognizance of news reports, the commission has stressed the "urgency" of amending the Protection of Human Rights Act, 1993, and spoke of the need to empower the NHRC for being able to inquire "more effectively" into rights violations by the armed forces.

Yesterday, the NHRC asked the Centre to pay Rs 10,000 to each of the four farmers, reportedly beaten up by Army jawans, and Rs 5,000 to each farmer forcefully evicted by them.

About 300 jawans had attacked farmers at Rythu Bazaar in Mehdipatnam and demolished their sheds, constructed on Army's land with the authorities' permission.

Defence officials justified the Army action to forcibly evict the farmers, for the state government had failed to do so despite assurances. They denied any human rights violation.

The district collector, however, said hundreds of Armymen damaged property at Rythu Bazaar. She was a witness to about 80 farmers protesting against the demolition too. Four farmers were injured.

Vegetables worth Rs 1.7 lakh were thrown on the ground, and despite the farmers' pleas, temporary structures, fittings, fixtures and other items were damaged. An FIR was lodged at the Bahadurpura police station.

The commission said: "The responses highlight the piquant situation where the versions of the two responsible and highly placed functionaries of the governments could have such wide variance". The collector's report is an eye witness account supported by photographs.

The commission said the "question really is whether high handed acts were committed by Armymen, of which the collector's report gives a graphic account". "To deny the entire event, and to say that the allegation regarding manhandling of farmers and destruction of property, to which officer of the rank of a district collector is a witness, as "malicious, unfounded and levied to tarnish the image of Army". "Till the time the Armymen left ... not a single case of injury to any individual was reported" seems to be a statement made with a greater sense of courage than care.

THE STATESMAN

3 NOV 2000

'Human Rights Act needs to be overhauled for wider scope'

HT Correspondent

Calcutta, November 4

STATE HUMAN Rights Commission chairman Justice Mukul-gopal Mukhopadhyay today dubbed the Protection of Human Rights Act, 1993 as "toothless". The Act in its present form can serve little purpose, as it can only recommend punishment for the guilty Government employees, he lamented.

Calling for an immediate review and radical overhauling of the said Act, Mukhopadhyay, former Chief Justice of the Rajasthan High Court said, "It must be made all-pervasive. It must include full protection of many other such fundamental rights as education, good health, safe drinking water,

employment, economic development and uplift and conjugal happiness."

Speaking at a round table discussion here today on 'social decay and neglect' organised by 'Inner Eye Productions', Justice Mukhopadhyay observed, human rights cannot be viewed in isolation from economic rights and prevention and removal of corruption and poverty. All these are inextricably intertwined, he opined.

"Protection of human rights of all our citizens would be impossible as long as a large section of the people live in abject poverty and squalor. But, while removal of corruption is one of the essential prerequisites for eradication of poverty, the Prevention of Corruption Act continues to be rampantly mis-

used in our country by vested interests in collusion with political parties of all hues and labels," he observed.

Referring to the issue of child labour raised by the European countries and the United States, Justice Mukhopadhyay said, "We, in India, must make it clear to all concerned that the issue must be assessed realistically, according to our standards of economic development. While it should be our cherished aim to abolish child labour, we must be able to ensure enjoyment of all basic, fundamental human rights by each of them."

A recent survey has revealed that 50 per cent of drug peddlers in Calcutta were children below the age of 14, he added.

THE HINDUSTAN TIMES

5 NOV 2000

RECs may get deemed university status soon

Apratim Mukarji
New Delhi, November 5

THE HRD Ministry is considering a move to declare Regional Engineering Colleges (RECs) as deemed universities to upgrade technical education. The proposal is now pending with the State Governments. The status of deemed universities will require the RECs to be renamed. The REC Review Committee felt that "the college status is perceived to inhibit growth and vision beyond a teaching institution."

The proposal is to rename the RECs Regional Institutes of Engineering and Technology. The Ministry is also considering inducting corporate sector personnel as well as professionals and academics in the Boards of Directors of the RECs to professionalise their governance.

The Boards will be headed by either a reputed academic or professional and will be responsible for providing leadership to the institutions. The Ministry is also ready to raise financial support to the RECs and bring them under the Block Grant System on the pattern of the IITs and IIMs.

Besides, the revamped RECs will focus on post-graduate education and Information technology (IT) education. The proposal to declare the RECs Deemed Universities is part of the overall plan to strengthen and restructure these institutions for "ensuring high standards of education and research on the pattern of the IITs."

Apart from striving to be at par with the IITs, the restructured RECs should also be "pace-setting" institutions capable of providing leadership to other technical institutions in their respective regions, the Ministry feels.

NHRC to keep out of Rajkumar case

HT Correspondent
New Delhi, November 5

THE NATIONAL Human Rights Commission (NHRC) has decided against intervening in the Supreme Court proceedings relating to withdrawal of TADA cases against 51 detainees in connection with the release of Kannada superstar Rajkumar.

A decision in this effect was taken by the Commission's full bench recently. The meeting was chaired by NHRC Chairman Justice J S Verma.

Tamil National Movement leader P Nedumaran alongwith two human rights activists holding talks with the forest brigand Veerappan to secure Rajkumar's release had last week appealed to the Commission to intervene in the Apex court case regarding the release of TADA detainees in Karnataka.

Expressing its inability to intervene the Commission said: "We are of the considered view that there is no occasion for the Commission to seek intervention in the proceedings in the Supreme Court."

THE HINDUSTAN TIMES

6 NOV 2000

Take up rights issue with Hanoi, Clinton urged

NEW YORK, NOV. 11. As the U.S. President, Mr. Bill Clinton, prepares for his historic trip to Vietnam, Human Rights Watch has urged that he give high priority to human rights issues during his discussions with Vietnamese officials in mid-November, according to a release from the organisation.

Human Rights Watch noted that Vietnam has taken steps in recent years to address some human rights violations and has implemented social and economic reforms. Tens of thousands of political detainees and re-education camp inmates imprisoned in the 1980's and 1990's have been released, thousands of Vietnamese who fled abroad as refugees have returned without incident, and the Government has shown some willingness to cooperate with the U.N. on human rights issues.

However, the Government continues to seriously curtail fundamental freedoms — particularly freedom of expression by dissidents and freedom of association by independent religious groups and trade unions.

"The U.S. needs to take a more energetic approach to raising human rights concerns with Vietnam," said Mr. Mike Jendrzewczyk, Washington Director of Human Rights Watch's Asia division. "This can be part of constructive exchange: President Clinton can offer technical assistance for reform and seek commitments for improvements in return."

The U.S. could assist in the reform of Vietnam's press, criminal and national security laws and help ensure its compliance with the International Covenant on Civil and Political Rights (ICCPR), which Vietnam has ratified.

Human Rights Watch stressed that U.S. policy should focus not only on implementing the bilateral trade agreement signed this year with Vietnam, but also on obtaining concrete human rights improvements.

THE HINDU

12 NOV 2000

UNIFORM GLORY

M. K. ...
5-8 Officers and gentlemen *15/11*

THE "image" upon which the Army places so much emphasis has taken a beating with the National Human Rights Commission totally rejecting its version of an incident in Hyderabad, holding its action to be high-handed, and ordering the Ministry of Defence to pay compensation to the farmers affected. What adds to the seriousness of the questions to which Army Headquarters must now address itself is the nature of the incident: the demolition of supposedly unauthorised structure on defence land, and not action undertaken to counter militancy or terrorism which often attract allegations that are motivated. That a few hundred soldiers went on the rampage over something that did not really affect them personally would suggest their officers either approved, or condoned, their taking the law into their own hands.

It is true that military tradition requires an officer to stand by his men, but it would be stretching a point too far when the version of the incident the Army formally submitted to the NHRC was found to be inaccurate enough to be totally rejected. The credibility of the force has been diminished, and would appear to confirm the suspicion that mounting "cover ups" is becoming a dangerously frequent exercise. For that credibility is what has marked the Army distinct from and well ahead of the police in the public eye. A distinction so truly earned should not be frittered away. The nation at large salutes our defence personnel for undertaking the most arduous duties under trying conditions without complaint. This newspaper has consistently lauded their sacrifice. Yet it would be a serious act of omission not to sound a note of caution that by trying to paper over outbreaks of indiscipline the Army is putting to risk the faith which people have long reposed in it. "Image" is a reflection of reality and if the Army is to retain its glitter it is essential that its officers and men refrain from acts that bring it into disrepute. Steps must be taken to ensure that this remains an aberration and will not recur. The country's faith in its soldiers demands no less.

THE STATESMAN

15 NOV 2000

China set to sign UN human rights pact

Beijing, Nov. 20: United Nations human rights chief Mary Robinson arrived in Beijing on Monday for meetings that are expected to produce a landmark agreement on rights cooperation with China.

The memorandum of understanding on technical cooperation, to be signed in Beijing on Monday, would cover areas including administration of justice and human rights education in schools, the spokesman for her Geneva-based office said last week.

The breakthrough came after two years of discussions between the office of the high commissioner and the world's most populous

country, which some western nations and most human rights groups accuse of violating political and religious freedoms.

It also follows an announcement last week that US President Bill Clinton and Chinese President Jiang Zemin reached an agreement in principle to resume human rights talks frozen since last year.

Signing the memorandum on technical cooperation was the main purpose of Mr Robinson's third visit to China since 1998, UN rights spokesman Jose Diaz told reporters in Geneva.

"The significance is that this is the first time we have had a for-

mal agreement with China on cooperation in the field of human rights," he said.

The agreement "bodes well for the future of human rights in China," Mr Diaz said.

In September 1998, Mr Robinson clinched a memorandum of intent, the first step in cooperation with a country. In March 1999, a UN technical mission returned to China to assess needs. Mr Robinson came to China in February-March this year for further talks, but failed to clinch the memorandum of understanding.

The United Nations has technical cooperation agreements with

about 50 countries, ranging from Sudan to Guatemala.

Typical projects include providing UN training for members of the armed forces, the police, prison authorities and legal officials. Advisory services are offered on how to incorporate international human rights standards into national laws.

The China agreement would also be expected to cover preparing for ratification of two key international human rights treaties — one guaranteeing civil and political rights and the other on economic, social and cultural rights. (Reuters)

THE ASIAN AGE

21 NOV 2000

China to review labour camps in milestone UN pact

REUTERS
BEIJING, NOV 21

UNITED Nations human rights chief Mary Robinson signed an agreement with China on Monday which she said would tackle the 'Laogai' labour camps to which Beijing consigns anyone it considers a threat to Communist rule.

"This is a very significant move by China and I'd like to acknowledge it as such," Robinson told reporters after signing a memorandum of understanding with Chinese Vice Foreign Minister Wang Guangya.

The pact, calling for programmes in human rights education and police and judicial training, would build a "stronger culture of human rights here in China" and bring the country closer to international norms, she said.

The UN High Commissioner for Human Rights said the first fruits of the memo on technical cooperation would come in February,

when her office would review 'Laogai', or reeducation through labour.

Human rights groups say Beijing has used labour camp sentences to banish hundreds of political dissidents and more recently, thousands of adherents of the banned Falun Gong spiritual movement, to the Chinese gulag without trial.

UN to send 'rapporteurs' to look into allegations of torture and probe China's treatment of the Falun Gong sect

Robinson said her Geneva-based office intended to use the new cooperation to send special UN investigators, known as rapporteurs, to look into allegations of torture and China's treatment of Falun Gong, banned as an 'evil cult'.

The memo would also point the way to Chinese ratification of two key human rights treaties Beijing has signed but not enacted, she said.

China had "successfully found a development road suited for China's specific culture, which also includes the promotion and pro-

Robinson said.

Beijing signed the International Covenant on Economic, Social and Cultural Rights in October 1997 and the Covenant on Civil and Political Rights, a year later. While neither has been ratified by the Chinese legislature, Robinson said she had "every

sense that China does take very seriously its process of ratification of the two covenants".

Wang said China's signing of the memo after two years of talks with the High Commission would "help China know more about the practices and experience of the international community and other countries on human rights".

China had "successfully found a development road suited for China's specific culture, which also includes the promotion and pro-

tection of human rights", Wang added.

China argues that state sovereignty takes precedence over human rights and collective rights trump individual liberties. It also maintains that providing food, clothing and shelter for 1.3 billion people is more important than granting political rights.

Human rights groups remain sceptical that more dialogue and legal seminars will do enough to halt what they and some Western nations say are widespread violations of political and religious freedoms in the world's most populous nation.

Sophia Woodman, research director for the US-based group, Human Rights in China, expressed concern the UN might be opening "just another talking shop" with China along the lines of its bilateral rights dialogues with many Western countries.

"China doesn't need any more exchanges of views, which are of course useful, but don't really ad-

dress the very specific and concrete problems that we see happening every day," she said.

"What is needed is institutional reform, legislative change, training and oversight and the High Commission has enormous experience in helping countries set up very practical procedures for dealing with human rights violations," Woodman said.

But Robinson said the new agreement would not let China off lightly for violations and would lead to "serious debate on small print" of Beijing's obligations under rights treaties.

"I will be critical where criticism is necessary," she said. The signing follows an announcement last week that US President Bill Clinton and Chinese President Jiang Zemin agreed in principle to resume human rights talks frozen since last year.

Robinson, a former Irish president, is due to meet Jiang and Vice-Premier Qian Qichen during her two-day trip.

NHRC asks govt. to pay more attention to HIV-hit

The Times of India News Service

NEW DELHI: The National Human Rights Commission (NHRC) has made a series of important recommendations to the government on human rights and HIV/AIDS, based on two days of discussions by experts at a conference here last week.

Drawing the conclusion that there is a clear link between human rights, HIV/AIDS and development, the commission has asked the government to come up with an anti-discrimination legislation and review Juvenile Justice Act.

Destigmatisation, says the commission, would result in a more enabling environment. On the issue of consent and testing, the NHRC asks the government to exert more for the HIV-affected. The NHRC has recommended that protocol on informed consent to be applicable for all medical interventions, including HIV/AIDS, there should be provision of infrastructure for counseling in all testing, settings and availability of testing services for all should be the goal.

Acknowledging that confiden-

tiality has a paramount role in HIV/AIDS, the report says that disclosures should be made only in exceptional circumstances and innovative measures should be taken to implement respect for confidentiality within a legal framework.

Since there is a discrimination against HIV/AIDS patients in health care, the NHRC has urged the government to extend an anti-

discrimination legislation to the private sector and to ask the states to guarantee safe working environment for health care workers and also medical insurance schemes for HIV-positive

employees. Regarding women, the NHRC stressed, much more is needed to be done for those living in vulnerable environments. It asked for legal changes for empowering women, giving them right to information and access to care. Efforts should be made to reintegrate sex workers in a participatory manner. Other recommendations include reduction of cost of drugs, quality control of services and drugs and government should manufacture drugs.

HEALTH WATCH

- Link between human rights, HIV/AIDS and development: NHRC
- Draft anti-discrimination legislation and review Juvenile Justice Act
- Confidentiality has a paramount role in HIV/AIDS

THE TIMES OF INDIA

29 NOV 2000

Ruchika molestation case adjourned

HT Correspondent
Ambala, November 29

THE DAY'S proceedings in the controversial Ruchika molestation case ended even before they began on Wednesday. The counsel appearing on behalf of DCP S P S Rathore, asked for an adjournment, stating that a senior lawyer from Delhi, who was supposed to conduct the case, could not reach the court.

The next date of hearing in the case has been scheduled for December 2.

Moving an application on behalf of advocate Dinesh Mehta in the CBI designated court, advocate Faquir Chand Aggarwal told judge A K Tyagi that since Advocate Mehta was extremely busy in another case, he could not attend the court proceedings. Chand, however, filed a 40-page reply on an application moved by the CBI for condoning the delay in filling charges against the accused.

However, the judge asked the CBI counsel to proceed with his arguments. The CBI counsel citing from the former DGP R R Singh report said that as per his observation, in Indian society no girl would lodge a false complaint. Mr Singh had said that Ruchika's statement was based on facts.

The CBI counsel also told the designated judge that during the hearing of the case in the Supreme Court, the points of time limit and blood relation was also taken up and the CBI had started a probe in the case on instructions from the

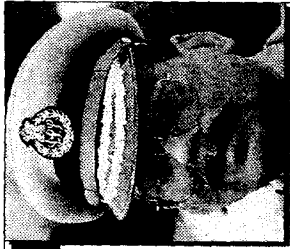
POINT-COUNTER POINT

WHAT THE CBI SAID

- No delay in filing charge-sheet
- On Sept. 2, 1990, the then DGP R.R. Singh had found the offence cognisable
- R.R. Singh had said in Indian society, no girl would lodge a false complaint
- The former DGP had recommended that a case be registered against Rathore

WHAT RATHORE SAID

- Since the victim died three years after the alleged molestation, time limit for alleged offence under IPC sections has expired
- The person (friend of Ruchika's parents, Madhu Prakash) who has moved the court has no locus standi in the case
- The probe by R. R. Singh was biased and unconstitutional



Rathore remains in seat, six subordinates shifted

Vishal Thapar
Chandigarh, November 29

SIX SUBORDINATES of the Haryana DGP, S P S Rathore were unceremoniously shifted when the CBI sought his transfer in connection with the investigations into the Ruchika molestation case.

Expressing its resolve to stick by its beleaguered police chief SPS Rathore, Haryana officials admitted that the State Government had turned down a CBI demand for Rathore's removal in the interests of justice a few months ago.

The country's premier investigating agency has slapped charges of child molestation on the Director-General of Haryana Police (DGP).

"The CBI had sought Rathore's transfer on the grounds that it wanted to question and treat as witnesses six of his subordinate colleagues. The investigators expressed the apprehension that the subordinates could be influenced and prevented from depositing truthfully with Rathore as their boss," a Haryana Home department official admitted on condition of anonymity.

"But in order to accommodate the CBI, the six police officers have been transferred to the Transport Department," he

added. The CBI questioned them before they filed the chargesheet, he disclosed.

Asked whether the government had sought legal opinion in turning down the CBI request to transfer Rathore, and instead transfer six others who were not the cause of the problem, the home department source replied: "We don't need legal opinion to shift six subordinate officials."

Eminent lawyer and former bureaucrat G L Nagpal feels that the government is going out of its way to defend the police chief.

"The transfer of the six witnesses in any case an eyewash, what with the Chief Minister publicly backing the DGP; unequivocally conveying the message that the entire administration supported him. Any employee would be disinclined to risk incurring the CM's displeasure by depositing against his favoured police chief. Public exhortations of support by the CM are thus tantamount to destruction of evidence, which is an offence under the Indian Penal Code," points out Nagpal.

The official maintained that CM O P Chautala had already spelt out the government position: "No purpose shall be served by transferring Mr Rathore. For he shall remain a Director-General even after transfer."

apex court.

CBI counsel C. Sahai told the judge that earlier the Punjab and Haryana High Court after hearing from both the parties had ordered the police to register a criminal case against Rathore. Later the Supreme Court also upheld the High Court order.

However, in its reply duly signed by the DGP, the defence said that no where in the orders of the Supreme Court was it mentioned that it was condoning the delay in taking cognisance of the offence. The defence said that there was a delay of more than 10 years in filing the chargesheet.

The former DGP had even refused to record the statements of the eyewitnesses produced by defendant. It was submitted that there was no requirement under law to get an inquiry report to file a criminal case. It was submitted that the CBI investigation in the instant case was biased and unfair. It was submitted although the Supreme Court had given six months to the agency to complete the investigation, the CBI took about a year to complete the investigation.

It, therefore, prayed that the application for condoning the delay be dismissed.

CONFERENCE ON KASHMIR / 'AMEND ARMED FORCES SPECIAL POWERS ACT'

40-15
210
**'Army must be made accountable
for human rights violations'** Human Rights

By Shujaat Bukhari

SRINAGAR, OCT. 1. Expressing serious concern over increasing human rights violations in Jammu and Kashmir by armed groups and the security forces, a two-day conference today recommended amendments to the Armed Forces Special Powers Act besides making human rights bodies more powerful in dispensing justice to the victims.

During the second day of conference on 'Kashmir Today — Challenges and Prospects' organised by the Kashmir Foundation for Peace and Developmental Studies (KFPDS), a report on the state of human rights violations was presented and later discussed threadbare. While most speakers came down heavily on the security forces for committing excesses while fighting militancy and lashed out at the Government for protecting the guilty, violations by separatist militants also came up for discussion.

The thrust being on amending the Armed Forces Special Powers Act, the authors of the report also sought the empowerment of the National Human Rights Commission (NHRC) and the State Human Rights Commission (SHRC) to enquire into cases pertaining to armed forces, disengaging pro-Government militants from counter-insurgency operations and setting up peace committees.

Presenting the report, which interestingly was not distributed among the participants, Dr. Kamal Mitra Chenoy, an academician, said

both security forces and militants were responsible for grave rights violations. He said the Armed Forces Special Powers Act violates international treaties on human rights and the Geneva Convention as it gives full impunity to the armed forces to act against any person whether guilty or not. Evaluating the various clauses of the Act, he said a security force official can arrest or shoot a person, and blow up a house, "if he is of the opinion of that the person may pose a threat to security".

"By virtue of this Act, the security forces enjoy full legal impunity. A soldier can act as he wishes. He can kill a person, enter into a house without permission, and nobody can touch him. This Act is violative of the various declarations of human rights. It needs to be repealed so as to bring the guilty to book," said Dr. Chenoy.

"The armed forces are privileged under the Protection of Human Rights Act. When you are living in a democracy it is mandatory that everyone, no matter who, enjoys equal rights and is answerable to the people. So why this discrimination? To put an end to growing allegations of human rights violations against the armed forces, it is mandatory to make them accountable," he said.

Dr. Chenoy said in the last 10 years over 63,387 militancy-related incidents were recorded. In 1990, he said 5,153 such incidents occurred, and this shot up to 6,631 in 1995. However, the incidents have recorded a decrease from 1997 (4,702) to 1999 (4,327).

On the plight of Kashmiri Pandits, he said there was an immediate need for efforts to resettle them in their homes. They are living in pathetic conditions in the camps in Jammu, he said, adding that their relief should be enhanced. "They are the essence of Kashmiri-riat."

Noted journalist, Mr. B.G. Verghese, drew flak for his "one-sided" report on the Kunan Poshpora rape in 1990. Veteran journalist, Mr. Ved Bhasin, appreciated the report and said custodial disappearance, fake encounters and molestation of women should have been talked about in detail in the report.

The editor of *Kashmir Monitor*, Mr. Zafar Meraj, said the genesis of human rights violations dates back to 1947 when people used to be the victims of notorious police officers. "How long could Rafiq Baqals and Bashir Zargars be killed in cold blood," he asked.

The Chairperson of the State Human Rights Commission, Mr. Justice A.Q. Parray, said, "There cannot be an end to human rights violations but these could be contained." He advocated setting up a special court to deal with human rights cases so that people got speedy justice.

Prof. A.C. Bose, Prof. Riyaz Punjabi, Mr. Farooq Nazki, Dr. Ritu Dewan, Mr. Balraj Puri, Mr. Ghulam Nabi Khayal, Mr. Nasir Mirza and Prof. Noor Baba also took part in the discussion. On Saturday, the inaugural session focussed on the economic problems of Kashmir.

THE HINDU

• 2 OCT 2000

World body accuses Pak of human rights abuses

LONDON: In a damning condemnation, Human Rights Watch, a global human rights body, on Tuesday accused Pakistan's military rulers of committing "widespread abuses" in the name of political "reform" and called on Gen. Pervez Musharraf to immediately return the country to constitutional rule.



Gen. Musharraf In a 22-page report, "Reform or Repression? Post-coup Abuses in Pakistan," the Human Rights Watch said the Musharraf regime had detained opponents and former officials without charge, removed independent judges from the higher courts, banned public rallies and demonstrations, and rendered political parties powerless.

"Musharraf follows a long line of generals in Pakistan who have claimed that a period of military rule is the path in true democracy," said Sidney Jones, Asia director of Human Rights

Watch. "In fact, he is systematically destroying civil liberties in Pakistan," Mr Jones said.

He said bilateral donors and international lending agencies, including the World Bank and Asian Development Bank, should insist that the government of Pakistan commit itself to an action plan to restore good governance and constitutional rule before they agree to provide any new loans. The Human Rights Watch asked the Musharraf government to immediately lift the state of emergency imposed in October 1999, set a clear and reasonable timetable for holding national and provincial elections and revoke the provisional constitution order that suspended the constitution and undermined the independence of the judiciary.

It also asked the military regime to amend the November 1999 national accountability ordinance, ostensibly designed to punish corrupt officials, because it denied detainees due process of law and invited politically-motivated prosecutions.

It said the government should cease using the

army to monitor civilian institutions and hold judicial inquiries into allegations of custodial torture and prosecute those responsible.

The new report began with the immediate aftermath of the coup on October 12, last year, when Gen. Musharraf deposed Nawaz Sharif, and the policy objectives that Gen. Musharraf announced for his government.

It noted that the Sharif administration had alienated much of the public with heavy handed and increasingly authoritarian policies, and that Gen. Musharraf took pains to portray the coup as necessary to re-establish a basis for democratic rule.

In two areas, Gen. Musharraf did take important steps to safeguard human rights. One of these was to promulgate a juvenile justice ordinance protecting children's rights, and the second was to establish a national commission on the status of women. In other areas, Human Rights Watch said, the human rights situation had noticeably deteriorated as the military has consolidated power. (PTI)

THE TIMES OF INDIA

7 2 OCT 2000

HD-2

'Rights abuses rampant in Pak.'

NEW YORK, OCT. 12. Human Rights Watch has accused Pakistan's military rulers of committing widespread abuses in the name of political "reform", and called on Gen. Pervez Musharraf to immediately return the country to Constitutional rule.

In a 20-page report, "Reform or Repression? Post-Coup Abuses in Pakistan," Human Rights Watch said the Musharraf Government had detained opponents and former officials without charge, removed independent judges from the higher courts, banned public rallies and demonstrations, and rendered political parties all but powerless.

"Musharraf follows a long line of generals in Pakistan who have claimed that a period of military rule is the path to true democracy," said Mr. Sidney Jones, Asia director of Human Rights Watch. "In fact, he is systematically destroying civil liberties in Pakistan."

Human Rights Watch called on the Musharraf Government to:

12/10

immediately lift the state of emergency imposed in October 1999; set a clear and reasonable timetable for holding national and provincial elections; revoke the Provisional Constitution Order that suspends the Constitution and undermines the independence of the judiciary; amend the November 1999 National Accountability Ordinance, ostensibly designed to punish corrupt officials, because it denies detainees due process of law and invites politically-motivated prosecutions; cease using the army to monitor civilian institutions; and hold judicial inquiries into allegations of custodial torture and prosecute those responsible.

Human Rights Watch also called on the U.N. High Commissioner for Human Rights to visit Pakistan to raise human rights concerns, and on Pakistan's donors and trading partners to use every available opportunity to press for implementation of the legal and administrative reforms recommended above.

THE HINDU

13 OCT 2000

Bihar tops in custodial deaths: NHRC

By Our Legal Correspondent

NEW DELHI, OCT. 13. The National Human Rights Commission has expressed serious concern over the increasing number of custodial deaths in the country with Bihar topping the list with 78 such cases from April to September.

According to the Commission, custodial deaths had not come down inspite of a series of guidelines issued to the States to ensure that the human rights of the prisoners were not violated but 488 custodial deaths were reported in the last six months.

Besides Bihar, the other State where the number is on the in-

crease is Uttar Pradesh with 61 custodial deaths, Madhya Pradesh with 60 and Andhra Pradesh 43. Karnataka, Kerala and Tamil Nadu recorded 22, 14 and 9 respectively.

The northeastern States recorded minimum number of custodial deaths.

In respect of other human rights violations recorded from June 1 to September 30, U.P. accounts for 17,417 cases out of 30,631, followed by Bihar, 2,272; Delhi, 2,178; Madhya Pradesh and Maharashtra, 1,488. The southern States of Andhra Pradesh, Karnataka, Tamil Nadu and Kerala accounted for comparatively less number of cases, viz.

467, 358, 686 and 251. The least number was reported from north-eastern States and union territories.

The Commission has reiterated the States and UTs to take preventive steps to ensure that the human rights of the prisoners or those taken into custody were not violated.

It has asked them to sensitise the police officers and jail officials on the importance of protecting the human rights of the detenus.

The Commission has urged the States which have so far not set up Human Rights Commission in their States to constitute them at the earliest so that such cases could be monitored effectively.

Fresh summons to Dinakaran

By Our Special Correspondent

CHENNAI, OCT. 13. Fresh summons have been issued to the AIADMK MP, Mr.T.T.V. Dinakaran, to appear before the Additional Chief Metropolitan Magistrate, Economic Offences Court-II, Egmore, on November 3, for having failed to pay a fine of Rs.28 crores on an earlier case for contravening the provisions of FERA 1973.

The direction comes following the Enforcement Directorate filing a complaint against Mr.Dinakaran under section 57 read with Sec. 49 (3) and (4) of FEMA, 1999.

The ED's charge is that Mr.Dinakaran had failed to repatriate foreign exchange amounting to \$62,61,313 held by him outside India together with the interest and any other income that might have been accrued there on. Mr.Dinakaran had failed to repatriate the said forex through proper banking channels to India and thereby he was liable to be punished under the FERA Act.

Originally, the Directorate had imposed a Rs.31 crore fine on Mr.Dinakaran. On his appeal, the FERA Board reduced the fine amount to Rs.28 crores. As he had failed to pay the fine, as per the FERA Board's directions, the ED filed the fresh complaint.

It was taken on file on Wednesday by the Addl. CMM, Economic Offences Court-II, Mr. Venkatesa Perumal.

THE HINDU

13 OCT 2000

Torture, rape mar junta's record'

BY EVELYN LEOPOLD

United Nations, Oct. 17: Torture, rape, summary executions, anti-intellectualism and a general suffocating grip on all parts of society mark Burma's military government, according to a UN human rights report circulated on Monday.

The report, covering the first half of this year, noted "with deep concern the continuing deterioration of the human rights situation in Burma."

It was drafted by Rajsoomer Lallah, a former chief justice of Mauritius, who serves as a special rapporteur or investigator for the UN Human Rights Commission. The report serves as a basis UN General Assembly res-

olution in November.

Some of the worst indiscriminate violence by the military was committed against civilians belonging to minorities, particularly the Shan, Karen, Karenni and Rohingya groups.

Mr Lallah, who was not allowed to visit Burma but collected information in other countries, said the most frequent violations involved "extortion, rape, torture, forced labour and portering," along with some summary executions and forced relocation of minorities.

Moves toward democracy appeared dormant. Mr Lallah cited government directives and policies aimed at destroying the opposition National League of Democracy

through intimidation, threats, coercion and political charges against its members, arrest and sentenced under "an arsenal of laws."

The League, headed by Nobel laureate Aung San Suu Kyi, won elections in 1990 by a landslide but has never been allowed to govern, drawing sharp criticism against the junta from a variety of world leaders and international institutions.

"Arbitrary arrests and detention of NLD members and sympathisers, combined with the extension of prison terms for those who have already served their sentence, make up a general and consistent pattern of the suppression of fundamental rights to democratic governance," Mr Lallah wrote in the report. (Reuters)

5 killed as Lanka Army raids Tamil Tiger base

Colombo, Oct. 17: Sri Lankan troops raided a base of separatist Tamil Tiger rebels in the north, killing five rebels, a military spokesman said here on Tuesday.

Using rocket propelled grenades and machine guns, the troops took the rebels by surprise during Monday's raid at Nunavil in the Jaffna peninsula, Brig. Sanath Karunaratne said.

"We were able to completely destroy the bunker and other fortification of the terrorists," he said.

Five bodies of rebels from the Liberation Tigers of Tamil Eelam were recovered, he said.

This was the first confrontation in the northern battlefield since the country went to the polls on October 10 that returned President Chandrika Kumaratunga's People's Alliance to power.

After the Air Force bombed a major Tamil rebel gun position in the Jaffna peninsula on October 9, a day before the election, there has been no major fighting in the north. (AP)

THE ASIAN AGE

18 OCT 2000

NHRC suggests presumption of guilt

STATESMAN NEWS SERVICE

CUSTODY DEATHS

NEW DELHI, Sept. 11. — The National Human Rights Commission (NHRC) has suggested to the government that it include Section 114(B) in the Indian Evidence Act, 1872, to introduce a rebuttable presumption that injuries sustained by a person in police custody may be presumed to have been caused by a police officer.

In allegations of custodial death or rape involving the police, the NHRC said it was convinced that charges against members of the armed forces must be inquired into "promptly and effectively". It stressed the need for a separate procedure to deal with the armed forces.

The NHRC, in its Action

Taken Report-2000, has said that the para-military forces and the army should also report directly to the Commission any instance of death or rape that might occur "when a person is in their custody".

The NHRC stated that the ATR presented by the government to Parliament, though it recalled the procedures prescribed by the Human Rights Act, 1993, in respect of complaints brought against the armed forces, did not deal with the specific recommendations of the Commission.

Based on the experience of Jammu and Kashmir and North Eastern states, the Commission was of the view

that the security forces, when called upon to act in the aid of civil power, must do so in close coordination with civil administration. It recommended that such committees be given wider publicity by the state government as the dissemination of information will help in protecting human rights, especially in insurgency and terrorism-affected areas.

On the plight of residents displaced from the Kashmir valley, the NHRC said it hoped it would remain the firm endeavor of the Central and state governments to ensure their return to their homes safely.

In September 1999, the state governments had formulated a Draft Action Plan which would

be placed before the apex committee for approval before being sent to the government.

In the context of addressing the issue to custodial torture, the NHRC reiterated certain recommendations, including the one that early action needs to be taken on the suggestion of the Indian Law Commission to the effect that a Section 114(B) be inserted in the Indian Evidence Act, 1872 on the presumption of responsibility for injury in custody.

Stressing the need for amendment in Section 197 of the Code of Criminal Procedure, the NHRC also stated that as suggested by the National Police Commission, there should be a mandatory inquiry by a sessions judge in each case of custodial death, rape or grievous hurt.

THE STATESMAN

ASEM pledges respect for human rights

SEUL, Oct. 21. Leaders from Europe and Asia today endorsed the respect for human rights as an integral part of their common goals despite reported Asian objections.

The Chairman's statement by the South Korean President, Mr. Kim Dae-jung, the host of the Asia-Europe Meeting (ASEM) meeting here, included for the first time human rights as a common value for the four-year-old organisation.

"Leaders committed themselves to promote and protect all human rights including the right to development and fundamental freedoms, bearing in mind their universal indivisible and interdependent character," the statement issued at the end of the two-day ASEM meeting said.

The Asia-Europe Cooperation Framework (AECF 2000), a blueprint for ASEM's future, also said: "ASEM leaders envisage Asia and Europe as an area of peace and shared development with common interests and aspirations such as... respect for democracy... justice and human rights."

China, Malaysia and Singapore had opposed including democracy and human rights in the framework, citing concerns over intervention in internal affairs, diplomats had said.

In an apparent compromise, leaders of the two continents

agreed to insert "non-intervention" in internal affairs in the AECF document as a concession to the Asian countries.

ASEM groups South Korea, China, Japan, Indonesia, Malaysia, Singapore, Brunei, the Philippines, Thailand and Vietnam from Asia. From Europe there are Austria, Belgium, Britain, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the European Union Commission.

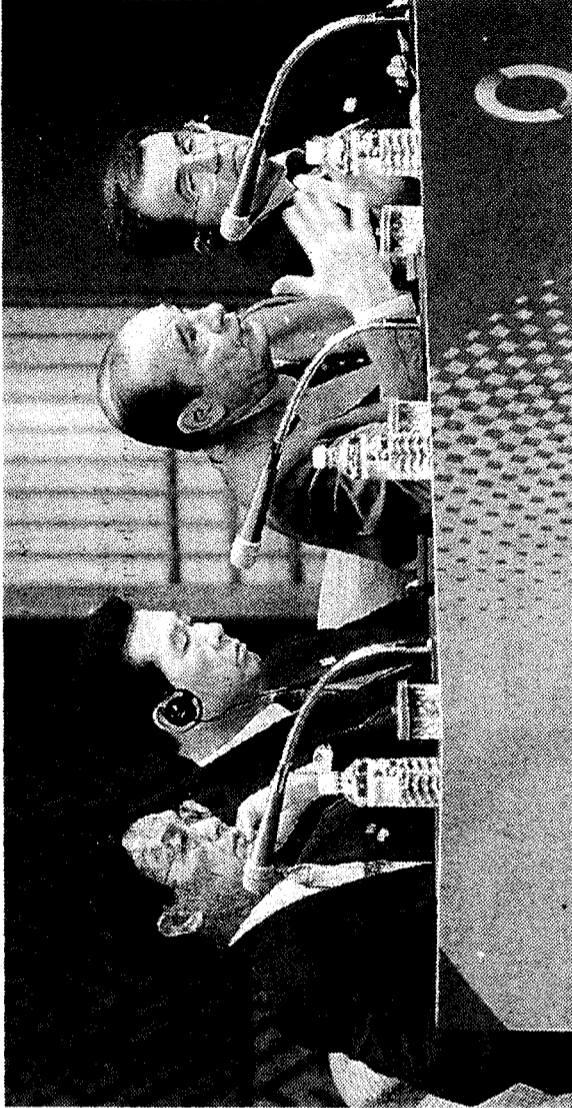
The approval of the AECF document represented the cementing of the relationship between Asia and Europe, the Danish Prime Minister, Mr. Poul Nyrup Rasmussen, said in Seoul. The next ASEM summit will take place in two years in Copenhagen.

The ASEM summit is a mechanism that allows the two regions to deepen their partnership.

A South Korean official acknowledged that there had been some "frank" talk during the leaders' discussion of democracy and human rights. "There were two schools of thought — one from Europe, the other from Asia," he said.

The E.U. External Affairs Commissioner, Mr. Chris Patten, said earlier this week in Seoul that the communique contained a "perfectly sensible and satisfactory reference to the promotion and protection of human rights".

While the European side should



The French President, Mr. Jacques Chirac (second right), gestures, as the Thai Prime Minister, Mr. Chuan Leekpai (left), the South Korean President, Mr. Kim Dae-jung (second left), and the European Commission President, Mr. Romano Prodi (right), look on during a press conference at the end of the Asia-Europe (ASEM) summit in Seoul, South Korea, on Saturday. — AP

not address human rights in a sanctimonious way, it should not be coy about discussing them, he said.

ASEM in future will focus on strengthening arms control, tackling global environmental issues and combating trans-national crime, including money-laundering, smuggling of immigrants, international terrorism and drug-trafficking, it says.

Meanwhile, the Seoul police

congratulated themselves today

on the handling of the two-day summit, which some had feared could turn into a flashpoint for anti-globalisation protests similar to those seen in Prague and Seattle over the past year.

The Seoul police issued a statement saying their preparations, which included the non-confrontational tactic of lining the march route with women police officers and traffic police, led to a successful conference. — Reuters

In the event, there were scuffles during several protests and marches by thousands of students and trade unionists on Friday in which six police officers and two demonstrators were injured, police said.

But the protests were held some distance from the conference centre, which was guarded by thousands of baton-wielding riot police.

THE HIRU

22 OCT 2000

CHANCES

Potential

outdated and decrepit Russian aircraft carrier for our navy at a mindboggling cost. If we have a strategic alliance with the USA, a joint Indo-US Indian Ocean Strike Command would save us from this albatross.



The US fleet could take over the major share of the air defence responsibility of the common waterway. A political guild like the G5 can levy pressure on India and Pakistan to sign on the dotted line and formalise what was tacitly accepted by both sides in Shimla in 1972 — that is, conversion of the Line of Control in Kashmir from a *de facto* into a *de jure* international border. It is well known that

there is no other solution to the Kashmir issue but intransigence is prevailing over reason.

NEW ROLE

Our lopsided relations with Afghanistan require sorting out expeditiously. If the Taliban can station its official representative in New York in Mohammed Abdul Mujaheed who incidentally contributed substantially in facilitating the release of the hijacked passengers of IC 814, surely we need to shed our dogmatic posturing vis-a-vis Kabul and recognise the Taliban regime using the same logic we did with Israel earlier. India's problem in its foreign policy has been just one: since Jawaharlal Nehru's days we have blindly bumbled

HUMAN RIGHTS AND CUSTODY REFORMS

59-b

By HL KAPOOR

25/10

EFFORTS made by the National Human Rights Commission have not brought about any significant change in police behaviour. This is evident from the growing number of custody deaths and other custodial crimes, including rape.

According to the NHRC secretary general, 188 people died in police custody and 700 others in judicial custody during 1996-97. Not only that, there have been 159 custody deaths in UP alone last year — the highest compared to other states.

The NHRC has ordered compensation and directed legal action in many cases. The lower echelons of the police are unmindful of the concern expressed by the NHRC. Even senior officers have taken the NHRC instructions very lightly. This is evident from the fact that policemen indulge in unseemly behaviour publicly. There have been cases of police torture resulting in deaths due to negligence and greed.

Experience has shown that policemen indulge in uncalled for beating to display their authority in public. The first reaction of policemen is to beat the man and extract a confession. Sometimes wrong confessions are extracted under fear and coercion. Such policemen have no respect for the law and indulge in crimes often raping destitute women kept in wrongful confinement. Gang rapes are common.

The policemen need to be briefed regularly on the implication of the crimes. These may include immediate suspension, registration of cases (where there is a prima facie case), loss of pay, prosecution

In the case of other offences, the period is 60 days.

According to Section 57 CrPC, no police officer can detain a person arrested without a warrant beyond 24 hours. Further, reports about all arrests in cognizable cases or cases where the persons are arrested without warrant will have to be sent to the magistrate in accordance with Section 58 CrPC.

The police are supposed to release the person on bail in all bailable offences and, if bail in bailable cases is not granted, the arrested person would be entitled to a writ of habeas corpus directing his release.

LEGAL RIGHTS

The constitutional rights of the accused are guaranteed under Article 22 of the Constitution. The framers of the law thought it prudent to put fetters on the police by guaranteeing rights to anyone arrested under ordinary law: (i) The right to be informed, as soon as possible, of the grounds of arrest.

Article 22 is in the nature of a direction to the arresting authority to disclose the grounds of arrest. (ii) The right to be defended by a lawyer of his own choice. In America, anyone arrested must be afforded an opportunity to consult a lawyer of his choice, and if he is unable to do so, it is the duty of the court to employ a lawyer for him.

In India, however, the court is not bound to employ a lawyer unless a request is made by the accused in this regard. (iii) The right to be produced before a magistrate.

Every accused has a right to be produced before a magis-

THE STATESMAN

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Human rights and the two summits

By P. S. Suryanarayana

The latest emergency summit of the Arab League in Cairo and the scheduled Asia-Europe Meeting (ASEM) in Seoul have been marked by more than one aspect — the sheer coincidence of their timing — as a common theme, albeit with the inevitable variances of political nuance.

An accent on the preservation of human rights, in a fundamental sense of this principle, defined the overall mood at the League summit besides being a critical ingredient of the new consensus reached in regard to the ASEM-agenda of the future. A debate about partners and security within the respective regions of the Arabs and the select Asian-European community, in addition to the inexorable focus on the U.S. as the non-member state of critical but differing importance to the two groups, were the other similarities.

But these comparable concerns, somewhat imperceptible on the surface, were understandably overshadowed by the sweeping contrast between the two forums with distinctive aims and approaches. Yet, the subtle commonalities merit attention as a possible trend on the incrementally interdependent international stage which of course is dotted by disparate regional associations including inter-zonal ones such as the ASEM itself.

On human rights, the political thrust of the declarations by the Arab League, its spoken and implied pronouncements included, was that Israel must honour the fundamental freedoms of the Palestinians as a recognisable people. At the core of the sparse but significant Arab unanimity was the insistence that the human rights of the Palestinians should be

conceded by Tel Aviv. It was a different story that the assembled Arab leaders decided against calling for a "holy war" on the Jewish state to wrest these freedoms, especially the one relating to Palestinian statehood.

For the ASEM, consisting of 15 states of the European Union and seven out of the 10 members of the Association of South East Asian Nations (ASEAN) besides Japan and China as also South Korea, it was a 'first' formal and collective pledge that they would strive to "promote and protect all human rights" — the right to economic development and the universally acknowledged freedoms. A categorical identification of the right to development, besides the caveat about non-intervention in the internal affairs of the ASEM states by external forces to catalyse a respect for the fundamental freedoms, enabled the sceptics among the Asian bloc — China as also Malaysia and Sin-

NEWS ANALYSIS

gapore — to endorse the essentially European formula on this sensitive question.

In one sense, the ASEM had come into being in the mid- 1990s only on account of considerations of economic cooperation in the context of an ASEAN perception of the EU as a 'civilian power' (a concept popularised by experts on Europe like Michael Smith). The intended contrast was with the U.S. as the sole superpower with a high military stake and an armed presence in the Asia-Pacific region. Not surprisingly, the ASEM's first summit in 1996 itself enshrined the principle of non-intervention in the affairs of each of its constituents by external forces including the other members of the same forum. The latest ASEM consensus

on human rights has been made possible by a reaffirmation, not a new enunciation, of this principle.

New prospects of reconciliation between South Korea as an ASEM member and its ethnically-related northern neighbour, in addition to the present moves for a historic thaw in the frosty U.S.-Pyongyang ties, compelled the forum to keep the spotlight on issues of security in East Asia with particular reference to Washington's long-term diplomatic and military interests in the region. In West Asia, on the other hand, the security profile of the U.S. and its quest for a diplomatic vision spanning Arab-Jewish interests kept the League busy as it grappled with Israel's perceived intransigence on the Palestine question.

A realpolitik bottomline in respect of both the Arab League and the ASEM, going beyond the basics of rights and security, was quite obviously the question of partnership within each of the two associations. The ASEM declared for the first time that Europe and Asia (excluding of course countries like India for reasons of the ASEAN's myopic view of history and geopolitics) had now become partners in the fullest sense of the term — some hype but not a joke certainly. In West Asia, on the other side, Israel raised a new cry that it didn't have a partner now for negotiations on the Palestine issue. But, even while blaming Israel itself for this supposed predicament, the Arab League recognised that it could sustain its forum of partners only if extremism was suitably curbed among its ranks in dealing with the Jewish state — in all, partnership as a goal that needed to be striven for even among like-minded parties in the present international milieu.

THE HINDU

28 OCT 2000

Narmada! a human rights issue

By Rajindar Sachar

THE SUPREME Court judgment in the Narmada dam case has sharpened the debate about the real content of the "right to development". Are bureaucratic decisions without prior consultation with the affected disadvantaged sections a sufficient answer? Is just parroting the refrain that a price has to be paid — without answering why the sacrifice must always be made by the disadvantaged and tribals and the benefits should always go to the powerful, political as well as moneyed, — justification?

No doubt, the judgment has disappointed human rights activists who were hoping for a more incisive examination of the rationale of the project and a greater sensitivity to the cry of the affected families. But the pro-dam lobby has no reason to make the vulgar dance of victory, complete with fire crackers, that the Gujarat Government indulged in. Has sensitivity dipped so low that the undoubted displacement and sufferings of lakhs (which even the court accepts) leave the Government cold? This was not a football match between the Government and the Narmada Bachao Andolan, the latter only highlighting the human rights aspect of the people and demanding a recognition of their right to live with dignity guaranteed by the Constitution.

The NBA prayer that considering the factors of wrong data and actual experience the court should appoint an expert committee to re-examine the project for its cost-effectiveness and that till then construction beyond 85 metres be kept in abeyance has not been accepted. But on the environmental aspect the court split 2:1. Environmental clearance was given by the Rajiv Gandhi Government in 1987. The minority judgment by Mr. Justice Bharucha expressed anguish that the requisite data for assessment of the environmental impact was not available when the clearance was granted. He pointed out that further in May 1992, the Environment Secretary, took the view that the conditions were not yet met and, failing compliance, a formal notification might be issued revoking the clearance. Mr. Justice Bharucha, therefore, directed that "until environmental clearance to the

project is accorded by a committee of experts, to be appointed by the Ministry, further construction work on the dam shall cease". But the majority, on the same material, came to the contrary opinion, thus highlighting the oft-repeated dictum that the highest court is not necessarily right; it is only right because it is the last court.

The majority surprisingly adopted a technical approach, not applying the requirement and conditions of the Environment Act, 1994, on the ground that clearance had been given in 1987. No such exclusionary rule to environmental

Chambal Dam oustees. A sensitive officer who dealt with these oustees even now feels a pang of guilt, remembering the fate of Rampur town which was totally submerged leaving 30,000 families to start life afresh. Further raising of the Narmada Dam height as permitted would result in the forest area of Hoshangabad being completely destroyed.

The court has accepted that the States are lagging behind in identification and acquisition of land to resettle the oustees. Mr. Justice Bharucha has given directions that the Grievance Redressal Authorities of Gujarat, Madhya Pradesh and Maha-

Has sensitivity dipped so low that the undoubted displacement and sufferings of lakhs (which even the Supreme Court accepts) leave the Government cold?

considerations has been entertained by the court as it has treated environmental considerations as broad fundamentals arising out of Article 21, right to life. That is why it directed relocation of industries outside Delhi even though they had been established decades ago and when no environment clearance was required in the law. The plea of labour that this would result, and in fact has resulted, in unemployment of over a lakh of workers was of no avail.

Similar was the court response to evictions of an immigrant population of 1,50,000 settled on the border of the Sanjay Gandhi National Park — a forest reserve on the outskirts of Mumbai — as far back as 20 years ago when even no alternative location was earmarked for them. The oustees continue to live under the open sky and without a shred of shelter. The evictions involved the removal of, besides slum dwellers, nearly 2,500 Adivasi or tribal families — whose hamlets had occupied parts of the forest even before the area was declared a national park in 1982.

The majority seems to have taken it for granted that the construction of big dams will improve the living standards of the oustees. One regrets that it was not made aware of the misery suffered by the

Pradesh that he has no land for the oustees. As a matter of fact, the oustees of the Bargi Dam (near Jabalpur) built years ago have not yet been properly rehabilitated because of non-availability of land. Such a situation is violative of the principles laid down in the United Nations Comprehensive Guidelines, 1997, which mandate that "all persons, groups, and communities have the right to suitable resettlement which includes the right to alternative land and housing which is safe, secure, available and habitable."

Though this judgment may apparently seem a setback to the NBA and its supporters, they need not throw up their hands. The court direction that a further raising of the dam height be done only on getting clearance from all authorities including the Grievance Redressal Authorities which are headed by former Chief Justices will enable the organisers to keep this issue alive and, meanwhile, sensitise public opinion and political parties to the human suffering and compel the Government of India to have an impartial examination of the matter. This is not a partisan issue but a human rights issue, and must be seen in that context.

The direction by the majority that in case of disputes the matter will be decided by the Prime Minister, whose decision will be binding and final, raises an important jurisprudential issue. Directions by the court can be given to statutory bodies or Grievance Authorities created by the court itself. But providing for a reference, by a court order, to the Prime Minister in his individual capacity, which will pre-empt the rights of the parties to seek remedy according to the law, is, to say with respect, rather unusual. This direction might also embarrass the Prime Minister, who may understandably wish to keep away from this dispute in which different State Governments have conflicting perceptions and which are run by rival political parties. Any such involvement by him could become a political issue and introduce unnecessary complexities in the matter which is already complicated enough.

(The writer is a former Chief Justice of the High Court of Delhi.)

30 OCT 2000

149-1 Nedumaran seeks NHRC 31/10 intervention in detenus case

By Our Special Correspondent

CHENNAI, OCT. 30. The Tamil Nationalist Movement leader, Mr. P. Nedumaran, and two other emissaries negotiating the release of the abducted Kannada film star, Mr. Rajkumar, with Veerappan have urged the National Human Rights Commission to intervene in the Supreme Court case relating to the brigand's demand for the release of 121 TADA detenus in Karnataka.

In an appeal to the NHRC, the emissaries including Prof. Kalyani and Mr. G. Sugumaran said the writ petitions were a matter relating to the human rights violations

of 51 persons who have been in detention for long, and 70 others who are out on conditional bail.

The NHRC should highlight the human rights violations and the need to uphold the common order of the special TADA court. This would result in the release of the 51 TADA detenus and the relaxation of the bail conditions for 70 others, they said.

The intervention might also provide the Supreme Court an opportunity to order the Commission to continue with its enquiry into the human rights violations by the Special Task Force in the border areas of Karnataka and Tamil Nadu from

1992, the emissaries said. The Sadasiva Commission could not continue its probe into the alleged STF excesses in view of the stay orders issued by Karnataka courts.

Denies reports

Mr. Nedumaran denied reports in a section of the press that he had recently met four of the five Tamil extremists lodged in the Tiruchi prison, whose release Veerappan has demanded.

He also said he was not aware of the any letter sent by the Tamil extremists to Veerappan requesting him to release Mr. Rajkumar.

THE HINDU

31 OCT 2000

A. P. ...
10-19

'ASEAN must help end Myanmar stand-off'

119

NEW YORK, AUG. 31. In letters to The Association of South-East Asian Nations (ASEAN) Foreign Ministers this week, Human Rights Watch called on ASEAN governments to use their influence to persuade Myanmar's State Peace and Development Council (SPDC) to end the current standoff with the pro-democracy activist, Ms. Aung San Suu Kyi.

Noting that the actions of the SPDC violated the rights to freedom of movement, expression, and assembly of Ms. Suu Kyi and fellow members of the National League for Democracy, Human Rights Watch said ASEAN

intervention would demonstrate the organisation's commitment to upholding basic freedoms.

The international monitoring organisation urged the Foreign Ministers to add their voices to that of the Thai Foreign Minister, Mr. Surin Pitsuwan, in arguing for an end to the confrontation.

In statements to the Bangkok press on Monday, Mrs. Surin noted his concern that the confrontation in Myanmar "may affect the image of ASEAN as a whole" and could sour the December ASEAN-European Union Foreign Ministers' meeting.

THE HINDU

2000

U.S. workers' rights are violated: Human Rights Watch

States under International Human Rights Standards,' has said the workers' basic rights are routinely violated in the United States "because US labour law is so feebly enforced and so filled with loopholes."

The report was based on field research in California, Colorado,

Florida, Illinois, Louisiana, Michigan, New York, North Carolina, Washington and other states, and examined workers' rights to organise, to bargain collectively and to strike under international norms.

The report, released Sunday, to coincide with Labour Day in the

United States, said that while the US government has called for "core labour standards", including the workers' freedom of association to be included in the rules of the World Trade Organisation and the Free Trade Agreement of the Americas, the US "itself violates freedom of association standards

by failing to protect the workers' right to organise."

The report said that employers resist union organising by dragging out legal proceedings for years.

In the 1950's, workers who suffered reprisals for exercising the right to freedom of association numbered in the hundreds each

THE TIMES OF INDIA

- 5 SEP 2000

The U.N. & human rights

By V. S. Mani

19-12-69

THE ROLE of the United Nations in 'enforcement' of human rights is likely to be one of the core issues which the Millennium Summit of world leaders is expected to address. Mr. Kofi Annan, U.N. Secretary-General, has specifically highlighted the issue in two of his recent reports. His introduction to the 1999 Annual Report on the Work of the Organisation dwells at length upon "unprecedented humanitarian challenges". His main complaint is that "the humanitarian challenge is heightened by the fact that the international community does not respond in a consistent way to humanitarian emergencies". In his view, "for the foreseeable future, the international community must remain prepared to engage politically — and if necessary militarily — to contain, manage and ultimately resolve conflicts that have got out of hand. This will require a better functioning collective security system than exists at the moment. It will require, above all, a greater willingness to intervene to prevent gross violations of human rights".

While expressing his disapproval to unilateral resort to force without the authority of the Security Council, the Secretary-General is also aware of the limitations of organisational action: "Differences within the Council (on the question of U.N. action in the Kosovo crisis in 1999) reflected the lack of consensus in the wider international community", highlighting a debate between the protagonists of state sovereignty and those of human rights.

Stung by a barrage of criticism at the 1999 General Assembly for the above views, Mr. Annan explains in his Report to the Millennium Assembly (March 27, 2000), "Although I emphasised that intervention embraced a wide continuum of responses, from diplomacy to armed action, it was the latter option that generated most controversy in the debate that followed." He notes three principal objections that emanated from the U.N. debates to the concept of 'humanitarian intervention' by the U.N. namely, (1) it could become a cover for "gratuitous interference in the internal affairs of sovereign states", (2) It might "encourage secessionist movements deliberately to

provoke Governments into committing gross violations of human rights in order to trigger external interventions", and (3) There is 'little consistency in the practice of intervention, owing to its inherent difficulties and costs as well as perceived national interests — except that weak states are far more likely to be subjected to it than strong ones'. Even conceding that the principles of sovereignty and non-interference offer vital protection to small and weak states, the Secretary-General asks his critics: "if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica —

occur overnight. The conditions that lead to them must be identified on time and eliminated. Third, very often the root cause of a human rights tragedy in a country might lie deep in history, e.g., Yugoslavia and Rwanda. This calls for intervention at the emotional level. (Remember the Preamble to the UNESCO Constitution, "Seeds of war are sown in the minds of men"). In such cases, 'humanitarian intervention' as a one-time surgical operation cannot eliminate the root causes of human rights violations. Fourth, the contemporary state system does not as yet recognise any international mechanism adequately empowered,

The core problem with the use of an international organisation for coercive action for protection of human rights is the 'politics'. Hence the importance of consensus as a justification.

to gross and systematic violations of human rights that offend every precept of our common humanity?" "Armed intervention must always remain the option of last resort, but in the face of mass murder it is an option that cannot be relinquished."

In an ideal world, when gross violation in one state, the international community should step in, promptly take even coercive action if needed, and bring the culprits to book. Alas, such an ideal world does not exist even within a national society!

There are quite a few fundamental questions to be answered, before the international community as represented by the U.N. can legitimately claim the right to 'humanitarian intervention'. First, the international community we are talking of is an international system of states, and its organ, the U.N. cannot but mirror this state system. Human rights are primarily claimable against the state, and groups or individuals that man or control the state. If a people cannot make their state institutions deliver human rights, how can they expect an external agency of the state system to get this done? Second, gross violations of human rights do not

to act in a human rights situation *per se*. The Council, unlike the General Assembly, has no direct mandate to promote observance of human rights, or even 'good governance'.

While the Namibia and South Africa situations of the 1970s justified coercive action (sanctions) by the Security Council, the validity of these precedents was founded on their acceptability to the general international community. The concern for human rights is universal. The core problem with the use of an international organisation for coercive action for protection of human rights is the politics of human rights. Hence the importance of consensus as a justification or legitimisation of international action.

I would commend the following principal ground rules for the U.N. to follow in case it launches coercive humanitarian action: First, the root causes of conflict must be addressed by the international community (social and economic development), instead of waiting for the volcano to erupt. Second, gross and systematic violations of the rights to life, such as genocide, must justify coercive U.N. action under Chapter VII of the Charter. Third, the action and the decision on which it is based must be in accordance with the principles of non-selectivity, objectivity, impartiality, and uniformity of application of standards. Fourth, the operation must be under the direct control of the U.N. There should be no 'contracting out' to individual states.

Fifth, there should be no *ex post facto* ratification of coercive action taken by any state or a regional organisation, such as in the case of Kosovo. Sixth, the coercive action must accord with the principle of proportionality. Seventh, the decision must be based on consensus, as far as possible the parties to the situation should be heard. Consensus should not be confined to the P5. Eighth, politics of human rights must be avoided in both the decision and its execution. Finally, there should be transparency in the process of decision-making. Will the powers-that-be allow the U.N. to function according to these ground rules?

(The writer teaches international law at Jawaharlal Nehru University, New Delhi).

Teach them to spare the rod

One important function of the national human rights commission is outlined in section 12 A of the Protection of Human Rights Act under which it was set up in 1993. This is to enquire into the violation of human rights and abetment thereof or negligence in the prevention of such violation by a public servant. Among the numerous complaints received, a large number is on human rights violations by the police. Such complaints jumped from 31,299 in 1997-98 to 54,236 in 1999. Though not all, some of these are cases of serious human rights violations, which include arbitrary arrest, implication in false cases, misconduct and misbehaviour towards women and custodial violence.

One important instruction of the NHRC is that custody deaths should be reported to it within 24 hours. Failure to do so will lead to a presumption that the authorities are trying to suppress facts. In 1997-98, 193 cases of custodial deaths were reported. All may not have been because of police torture. But in many there have been misuse of force by the police.

In a number of serious offences where authority was misused, the NHRC has had to order investigation by its own staff. This is in accordance with section 11(1)(B) of the Protection of Human Rights Act, which orders such an investigative body to be constituted under an officer not below the rank of the director general of police or such other officers.

Police never appreciate investigation into complaints by any outside agency. Even senior officers feel police conduct can be controlled only through strict internal regulation. But experience has shown exclusive reliance on internal regulation is insufficient. That is why civilian oversight is found to be crucial, although substantiating charges against the police often becomes difficult.

The NHRC has been very particular about cases against the police. There has always been an effort to curtail the police leadership. The commission has often asked the state criminal investigation department to take the case and report to the commission.

One such case was the custodial death of Atal Bihari Mishra, a student of the Benaras Hindu University in Ballia. Initially, the police tried to pass off the death as caused by a bomb attack by hoodlums on the vehicle he was travelling in. Investigations by the commission revealed Mishra was implicated in a false case and tortured to death because of political differences between his father and a local politician of the then ruling party in Uttar Pradesh.

At the instance of the commission, the state CID submitted a chargesheet against 19 police officers including the SP. The commission directed the state govern-

The NHRC believes systemic reform of the police is needed to prevent human rights violations by the force, writes Sankar Sen



Might isn't right

ment to pay interim compensation to Mishra's father as well. The government however declared that since the case was pending in court, compliance with the recommendations could be possible only after the police officials were found guilty.

The commission pointed out to the government that award of interim relief under section 18 of the act is not dependent on the establishment of culpability of the public servant. The remedy is "independent of such pettifoggeries". To provide "interim relief" only after guilt was proved would nullify the humanism the statute sought to enshrine. The UP government paid the compensation.

In another unfortunate case of one Usman Ansari of Nagpur, the NHRC had to intervene as senior police officials were trying to cover up the misdeeds of their subordinates. Hamida Begum alleged that her husband, Ansari, was forcibly taken away by police constables to prepare food for a party organized to celebrate the promotion of the head constable. Next morning, the dead body of Ansari was found on the road near the place the party was held.

The director general of Maharashtra police informed the commission that the case was closed by the state CID as nobody could give definite evidence. The commission investigations found the state CID report unsatisfactory. A scuffle had taken place between the deceased and some po-

licemen at the party, and Ansari had suffered injury to his skull from which he died. Death was not caused by a road accident. The commission asked the state government to get the matter investigated by the Central Bureau of Investigation and pay a compensation of two lakh rupees to the next of kin of the victim.

Another investigation into the killing of a businessman at Ranchi had a salutary impact. Reeta Dhawan complained that the Maruti van in which her husband was returning from Varanasi in December 1993, was surrounded by six policemen. They demanded one lakh rupees and on being refused, shot Dhawan at point blank range. A criminal case was started. The police officers were first suspended, then convicted and sentenced to death.

The commission also ordered a compensation of Rs 10 lakhs. The state government however stated that since the culprits had been convicted and sentenced to death, the payment of the compensation would be a financial burden for the state. The commission disagreed. The establishment of the culpability of public servants in a criminal trial and their conviction do not put at rest the claim for compensation or immediate relief to the dependents of the victims. Culpability of public servants also cannot absolve the state of its liability of compensation. The state government complied with the recommendations.

In another case concerning the high-handedness of the provincial armed constabulary at Varanasi, the commission took *suo motu* cognizance of a newspaper report to initiate investigation. This established that PAC personnel had confined and then assaulted a group of students who had gathered to felicitate a friend on his academic achievement.

The state CID took up the issue and chargesheeted 28 PAC personnel. The commission recommended interim relief taking into account the nature of attack, the medical treatment and the violation of integrity of the person. The UP government has since confirmed that the money has been sanctioned.

The NHRC is also bothered about irregularities in post-mortem reports. In a number of instances the reports have appeared to have been doctored or inordinately delayed. If doctors, on whose opinion the reports depend, are intimidated, there can be total miscarriage of justice. The commission has therefore recommended that video recording of post-mortem examinations be sent to the NHRC for scrutiny. Twenty two states and Union territories have accepted the recommendations. The commission is also pressing for the adoption of a model autopsy form, which has been agreed upon by 17 states and Union territories.

Increasing violence in the lock-up has made the commission decide that its officers will pay regular visits to any jail or institution under state government control where persons are detained or lodged for purposes of treatment, reformation or protection. Its officers will also study living conditions and make recommendations. Twenty six states and Union territories have agreed to allow NHRC officials into the police lock-up. The commission is pursuing the matter with Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur and the Union territories of Daman and Diu, which are yet to respond.

The NHRC is urging police administration in the states to set up a human rights cell in the police headquarters to serve as the main link between the police and the NHRC. The police complaints authority will be there for oversight, to ensure human rights training and sensitization of the forces, and to promote awareness.

The commission strongly feels the need for systemic reforms of the police. It has been urging the implementation of the national police commission's recommendations for insulating the police against external pressures and influence. In the *Prakash Singh versus Union of India* case, in which the commission has implicated itself as a party, it has highlighted this need in a comprehensive affidavit. The verdict of the Supreme Court in this case will have an important bearing on police reform and help the police uphold law and protect human rights with greater efficiency.

The author is former director-general, national human rights commission

NHRC urged to probe rights' violation by Andhra Pradesh Govt

HT Correspondent
Hyderabad, September 6

CONGRESS FLOOR leader in Andhra Pradesh Assembly Dr Y S Rajasekhar Reddy has urged the National Human Rights Commission (NHRC) to order an inquiry into the brutal suppression of human rights by the Andhra Government in the wake of agitation against the power tariff hike.

In a letter sent to the NHRC Chairman, Dr Reddy has alleged that the Chandrababu Naidu Government was violating human rights with impunity.

He said during the past three months the police resorted to lathi charge in 120 towns, foisted 533 false cases and arrested 25,414 people all over the State. He said that the police fired on the 'Chalo Assembly' rally in Hyderabad on August 28 without any provocation, killing two people and injuring 23. Over one thousand people received injuries in the lathi charge too.

He said the Andhra Government seems to have resolved to harass

various parties and participants by invoking the provisions of Indian Penal Code (IPC).

Dr Reddy said despite the permission given by the Police Commissioner to take out the rally, the police blocked the entire path leading to the venue by deploying massive force with high-tech weapons, including sten guns, electronic lathis, AK 47 rifles apart from using tear gas and water canons.

He accused that the government of creating an atmosphere of terror through out the State by threatening leaders and workers of the Congress and nine Left parties who are demanding a roll back of power tariff hike.

Dr Reddy urged the NHRC to direct the Andhra Government to pay an ex gratia of Rs 5 lakh to the victims of the police firing, and payment of compensation to all the injured.

The Opposition leader also requested the NHRC to inquire into all the incidents and recommend severe action against police officers responsible for brutalities on protestors.

THE HINDUSTAN TIMES

27 SEP 1991

Mizo Govt awaiting NHRC report on Chin refugees

Aizawl, September 7 *WCS*

THE MIZORAM Government is waiting for a copy of the notice issued by the National Human Rights Commission (NHRC) regarding the alleged detention of about 1,000 Burmese Chin nationals and their possible deportation to Myanmar.

Chief secretary H V Lalringa said the State administration had not received the NHRC notice, which has been issued to the Union Home Ministry, the External Affairs Ministry and the Mizoram Government.

He said the Government would decide on the course of action after studying the contents of the notice.

Reports from New Delhi had earlier claimed that the notices were issued to the two ministries and the Mizoram Government on a petition filed by the London-based Amnesty International, which alleged that hundreds of ethnic Chin people had been detained and at least 87 had been deported already.

Amnesty International had urged the NHRC to direct the

Reports from New Delhi had earlier claimed that the notices were issued to the two ministries and the Mizoram Government on petition filed by the London-based Amnesty International, which alleged that hundreds of ethnic Chin people had been detained and at least 87 had been deported already

authorities to halt deportations immediately because people who were deported could be tortured by the military Junta of Myanmar.

In the first week of August, the

Mizoram police had detained and deported at least 181 illegal Myanmar settlers. According to police, most of them were involved in illegal businesses such as trading in country liquor and drugs.

Factional feud killing: Two persons were killed and a teenager was critically injured in south Mizoram on Wednesday when five men barged into a house and fired indiscriminately. Sources said the shoot-out could be a result of internal rivalry between two factions of the underground Chin National Army (CNA) of Myanmar.

According to reports, five armed men barged into a house in a remote village called Vaphai in Champai district on the Indo-Myanmar border and shot two people who had taken refuge in the house for the night.

A 12-year-old boy was critically injured in the shoot-out. The teenager was later admitted to a nearby hospital for treatment. Officials said it is difficult to ascertain the reasons for the killing before confirming the identity of the victims.

(UNI)

THE HINDUSTAN TIMES

28 SEP 2000

HUMAN RIGHTS ACT

A Very British Compromise

By AG NOORANI

"A CYNIC might indeed find plausible arguments, during the last ten years in the history of more than one country, for asserting that the most effective method of ensuring the destruction of a fundamental right is to include a declaration of its existence in a Constitutional instrument. But there are also strong practical arguments against the proposal, which may be put in the form of a dilemma: for either the declaration of rights is of so abstract a nature that it has no legal effect of any kind, or its legal effect will be to impose an embarrassing restriction on the powers of the Legislature and to create a grave risk that a large number of laws may be declared invalid by the Courts because inconsistent with one or other of the rights so declared."

The Joint Committee of the British Parliament on Indian Constitutional Reform (1934) was expressing a view (para 366) that persists, still, in that country. That accounts for the compromise that is embodied in the Human Rights Act, 1998 that will come into force on 2 October. It is not as logical as the French would have made it, nor as tidy as the Swiss or as organised as the Germans would have crafted the law. It is a very British compromise, messy but practical and rooted in the country's legal tradition and political preferences.

EU DRAFT

The British had no qualms about discarding their views to weave into the Government of India Act, 1935, in their own interests, two fundamental rights to bind Indian legislatures. Section 298 barred discrimination against any British subject "domiciled in India" on grounds of religion, race, or "colour" in respect of public employment, property rights or business or profession. Section 299 barred acquisition of property except by a law which had received the prior approval of the Governor-General or the Governor.

The Human Rights Act, 1998 incorporates the European Convention on Human Rights (ECHR) as part of British law, enforceable directly by British Courts. *The Economist* proudly recalled that "half a century ago, British jurists played a leading part in drafting the ECHR". Signed in Rome on 4 November 1950, the United Kingdom was the first to ratify it.

What *The Economist* overlooked was that the country's exertions in 1950 were not inspired by zeal in the cause of liberty but by the craftiness that earned it, two centuries ago in France, the sobriquet *Albion perfide* (perfidious Albion), a short form for *L'Angleterre, ah! la perfide Angleterre* (England, ah! perfidious England), coined a century before the French Revolution. In the fine tradition of that country, however, it was an Englishman — Lord Lester QC, who has championed the cause of incorporation since 1968 and introduced Human Rights Bills in the House of Lords in 1994 and 1996 — who delved into Cabinet papers and exposed the duplicity.

The author is a lawyer and commentator on current affairs.

He did that in an essay on "European Human Rights and the British Constitution", published in a collection entitled *The Changing Constitution*, edited by Jaffrey Jowell and Dawn Oliver (1994). It is true that Sir David Maxwell-Fyfe, former Attorney-General and later as Lord Kilmuir, Lord Chancellor (1954-62), chaired the legal committee of the Council of Europe's Consultative Assembly and Sir Oscar

Major's government, Lord Mackay opposed it on the ground that it "would inevitably draw judges into making decisions of a far more political nature, measuring policy against abstract principles with possible implications for the development of broad social and economic policy". Others who shared this view feared that it would affect criteria for high judicial appointments.

Two processes made huge dents in the traditional view. One was British citizens' recourse to Strasbourg in notable cases such as *The Sunday Times* case concerning Peter Wright's book *Spycatcher*. The other was the Courts' recourse to the Convention while interpreting the law when it was uncertain or when they had a discretion.

The Labour Party was pledged to incorporation. In December 1996 the shadow Home Secretary Jack Straw and the shadow Minister

for the Lord Chancellor's Department Paul Boateng published a Consultation Paper on the subject. There were three ways of incorporation. One is by entrenchment as in the United States and India. The rights cannot be amended by ordinary law but by a special majority. A law which violates the rights can be struck down as void by the courts. A different model is provided in Section 33 of Canada's Charter of Rights and Freedoms. Parliament or the legislature of a Province can declare that a particular statute "shall operate notwithstanding a provision" in the Charter (bar some provisions exempted from change). Weakest of the three is Section 5 of the New Zealand Bill of Rights, 1990. It says: "Whenever an enactment can be given a meaning that is consistent with the rights and freedoms contained in the Bill of Rights, that meaning shall be preferred to any other meaning" — a license for explicitly restrictive legislation.

INCOMPATIBILITY

In 1996, Lord Irvine, now Lord Chancellor, strongly supported the New Zealand model as "a very British compromise". The Human Rights Act, 1998 follows a different cause altogether. First, it codifies existing practice, enjoining that the courts "must take into account" rulings of the European Court of Human Rights, and of the Commission and Committee of Ministers at Strasbourg under the ECHR. Legislation "must be read and given effect in a way which is compatible with the Convention rights".

Secondly, it empowers the courts to make "a declaration of incompatibility" if they find legislation to be incompatible with the ECHR. Ministers are empowered thereupon to take "remedial action" by amending the law suitably, by mere executive order.

Thirdly, executive action in breach of the ECHR is rendered "unlawful" unless explicitly mandated by law. Lastly, it confers on the "victim of an unlawful act" a right to bring proceedings against the responsible public authority. The hallowed doctrine of Parliamentary sovereignty survives. It was, however, diluted, if not abandoned, in the European Communities Act, 1972 which confers primacy on EC (now EU) law over UK law.



Dowson, former senior legal adviser at the Home Office, was the main draftsman of the Convention. Their aim was not to draw up an effective document but to dampen European zeal and dilute the text. The Attlee Government strove hard "to stifle or cripple it at birth, and that, because of those efforts, the Convention is weaker than its begetters had intended". Lord Chancellor Jowitt was "a particularly strident" opponent of ratification. He explained to Hugh Dalton that "we were not prepared to encourage our European friends to jeopardise our whole system of law, which we have laboriously built up over the centuries, in favour of some half-baked scheme to be administered by some unknown court". In a paper to Cabinet colleagues he described the Convention as "so vague and woolly that it may mean almost anything". He added: "any student of our legal institutions ... must recoil from this document with a feeling of horror ... I cannot view with equanimity ... (an) appeal to a secret court composed of persons of no legal training, possessing the unfettered right to expound the meaning of 17 Articles which may mean anything; or — as I hope — nothing."

INCORPORATION

Why, then, did Britain ratify the ECHR on 8 March 1951, the first signatory to do so? Because, as Lester reveals, "the Cabinet reluctantly accepted Foreign Secretary Ernest Bevin's advice to sign the Convention for diplomatic reasons, while maintaining their firm opposition to allowing individuals to take their complaints to the European Commission or Court." In December 1965 another Labour Government, headed by Harold Wilson, made a declaration under Article 25 of the ECHR permitting individuals to complain to the European Commission of Human Rights. It was not even discussed in Cabinet. A British citizen could thus drag his government to the Commission and eventually the Court at Strasbourg since he had no such remedy in the law of his own country. It entailed a delay of five years and an average cost of £30,000.

Yet, to this day the Conservatives have been opposed to the incorporation of the ECHR. As Lord Chancellor in John

SMAN

200

UN rights body urged to help resolve Naga conflict

Sandham Oken Jeet
Kohima, August 3

HT-2
A/8

THE NAGA People's Movement for Human Rights (NPMHR) and the International Alliance of Indigenous and Tribal People of the Tropical Forests (IAITPTF) have urged the UN Commission on Human Rights and the international community to help resolve the 52-year old Indo-Naga "armed conflict".

Some prominent citizens of the country have submitted a representation to Prime Minister A B Vajpayee seeking peace in the State.

The organisations drew the commission's attention to several grievances. These included the arrest and detention of NSCN(I-M) general secretary Thuingalen Muivah in Thailand, forcible closure of the Ceasefire Monitoring Cell by security forces, imposition of the Disturbed Area Act in Manipur, recent killing of 12

NSCN(I-M) cadres in lower Assam, random frisking and detention of people using the highways, and raids on houses and arrests of NSCN(I-M) men.

According to the organisations, the ceasefire pact has so far failed to trigger a concrete political process or dialogue.

Though the NPMHR recognised the pact's limitations, it felt the need for peoples' intervention to consolidate the peace process.

Both organisations have taken several initiatives to strengthen the peace process. They have met different Naga militant groups to help end hostilities among them, consulted the Indian armed forces to promote understanding, conducted seminars and workshops on peace processes and organised peace marches.

Some of the country's prominent citizens have, in a memorandum to the Prime Minister, said that certain developments contributed to endangering the peace process.

These developments include the State's issuing of non-bailable warrants against Muivah, charging him with conspiracy to kill Chief Minister S C Jamir and implicating Grinder Muivah in the attempted hijack of an Indian Airlines aircraft in Aizawl.

According to the citizens, the role and status of other parties involved in the dispute is uncertain. The Centre's failure to officially recognise Muivah as the NSCN(I-M) general secretary — with whom the ceasefire pact was signed — and its indifference to the Thailand case against him have added to the problem.

The NPMHR and the IAITPTF have sought the Prime Minister's intervention to secure Muivah's release and urged Vajpayee to "locate the ceasefire deal and peace process in a larger democratic framework".

They called for a transparent and responsible ceasefire monitoring mechanism to make peace dialogues meaningful.

THE HINDUSTAN TIMES

- 4 AUG 2000

Pak envoy snubbed at UN forum for raising issue of J&K rights violations

GENEVA: The UN Commission on Human Rights on Friday snubbed Pakistan for raking up the issue of human rights violations in Jammu and Kashmir. Islamabad's senior diplomat was stopped from articulating his country's position and concern on the situation in the troubled state.

Ms Lulia A. Motoc (Romania), chairperson of the plenary session for the UN sub-commission for the promotion and protection of human rights told the Pakistani diplomat not to violate the rules of the forum by raising the issue of human rights in another country.

This was contested by the Pakistani diplomat, who pleaded that he was not speaking on human rights violation taking place in India, but in Kashmir, which is a disputed territory. He cited the UN Security Council resolutions to this effect. But a number of sub-commission members, including Ms Jane Hampson (Britain), Mr Louis Joinet (France) Mr Asbjorn Eide (Norway) and Mr Paulo Pinheiro (Brazil) strongly opposed the

Pakistan government's stand on this issue, stating that "commission is not here to decide the maps and boundaries" of the member countries. They clarified that the commission has no "interest in the Kashmir question" and hence no permission should be granted to the diplomat to air his government's view on the issue.

They said as things stand today, Pakistan "does not administer that territory and as such has no right to speak on human rights violations that take place in another country".

The two-week long sub-commission meeting is being attended by NGOs from India, Pakistan, Sri Lanka and over 120 other countries, besides senior officials of the member nations. Several Kashmir separatist and human rights groups are also attending the session. Pakistan cannot raise the Kashmir issue in the current session. Indian diplomats and officials did not intervene on the issue, but allowed delegates and members from other nations to contest the Pakistani claim. (UNI)

THE TIMES OF INDIA

5 AUG 2000

Human
Rights

HD-1
5/8

Setback to Pakistan at UNCHR meet

GENEVA, AUG. 4. Pakistan suffered a major setback today when the United Nations Commission on Human Rights (UNCHR) refused it permission to raise the issue of alleged human rights violation in Jammu and Kashmir.

Ms. Lulia a Motoc (Romania), chairperson of the plenary session of the U.N. sub-commission for the promotion and protection of human rights, asked the Pakistani representative not to violate the rules of the forum by raising the issue of human rights of another country. Islamabad may not be able to rake up the issue again in the current session.

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speaking on human rights violation taking place in India, but in Kashmir, which is a disputed territory. He cited the U.N. Security Council resolutions to this effect.

But a number of sub-commission members including Ms. Jane Hampson (Britain), Mr. Louis Joinet (France), Mr. Asbjorn Eide (Norway) and Mr. Paulo Pinheiro (Brazil) strongly opposed Pakistan's stand on this issue, stating that the "Commission is not here to decide the maps and boundaries" of the member countries. They clarified that the commission has no "interest in the Kashmir question" and hence no permission should be granted to the diplomat to air his

Government's view on the issue.

They said as things stand today, Pakistan "does not administer that territory and as such has no right to speak on human rights violations that take place in another country."

The UNHRC had passed a resolution during the last session which forbids a member country to speak on human rights violation taking place in another country.

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THE HINDU

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Sorabjee to attend
UN talks on
minorities

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PRESS TRUST OF INDIA

NEW DELHI, Aug. 5. —
Attorney-General Soli J
Sorabjee is leaving for Geneva
tonight to attend deliberations
of the UN sub-committee on
prevention of discrimination
and protection of minorities,
where he is likely to preempt
Pakistan's attempt to raise
issues relating to minorities in
India.

H. K. K. K.
"Pakistan usually utilises
such opportunities to carry out
political propaganda against
India," Mr Sorabjee said,
adding, "it is necessary to
explain the Indian position to
preempt Pakistan from mak-
ing this an issue."

Mr Sorabjee, elected as the
Indian member to the UN sub-
committee in 1998, said as an
independent member it was
his duty to present the true
picture of the ground situation
before the UN body.

The UN Commission on
Human Rights yesterday
refused permission to Pakistan
to raise the issue of alleged
human rights violations in
Jammu and Kashmir on the
ground that Pakistan "does not
administer the territory and as
such has no right to speak on
human rights violations that
take place in another country"

THE STATESMAN

6 AUG 2000

110-14
7/8

NHRC urged to initiate peace talks

NEW DELHI, AUG. 6. In view of the recent attacks on Christian missionaries in various parts of the country, a Christian body has appealed to the National Human Rights Commission (NHRC) to initiate a peace dialogue among the different communities to help overcome the present mood of "mistrust and intolerance" and direct the police to take steps for the protection of the minority community.

In a petition filed before the NHRC, the Global Council of Indian Christians (GCIC) said the prejudices and misconception in the minds of people affected the rights of "voiceless and faceless Christians working in remote parts of the country to spread the message of love".

The GCIC urged the Commission to initiate dialogue within a specific timeframe to avoid any further damage to the Indian society. Mr. Sajan K. George, national convener of the GCIC, regretted that the priests, nuns, pastors and social workers, who dedicated their lives to the conversion of illiterates to literates, sick to health, lepers to normal and destitutes to proud citizens of India, were being blamed for no fault of theirs.

"Inadvertently or intentionally an anti-Christian feeling is being spread. Ending the hatred is essential not only for the Christian community but also in the larger interest of the nation. The com-

munity leaders are of the opinion that a dialogue with wider representation from the Hindu religion including the Shankaracharyas would help clear prejudices and misconceptions about Christians," he said.

"Swami Nichalanda Saraswati of Puri has agreed to start a reconciliation process at any time and we are sure if the NHRC starts the peace dialogue and reconciliation process, the entire nation will support it," he said, urging the Commission to issue an order to the Director General of Police of all States to provide security to the members of the minority community.

He also called for special arrangements in Uttar Pradesh, Madhya Pradesh, Orissa, Andhra Pradesh and Karnataka on a war-footing.

The GCIC also requested the NHRC to constitute the State Minorities Commission and Human Rights Commissions to instil confidence in the minds of members of minorities and marginalised section of the people.

The NHRC has assured the GCIC that it would take suitable action to remove the apprehensions and fear from the minds of the minority community.

Mr. Justice K. Ramaswamy, NHRC member, said that since the matter was of great national importance, the Full Bench of the Commission would deliberate on it and take suitable action. — UNI

THE HINDU

- 7 AUG 200

Court clears way for Pinochet trial

9/8
Santiago, Aug. 8 (AP)—Chile's Supreme Court stripped former Gen. Augusto Pinochet's immunity, clearing the way for a trial on human rights abuse charges, a judge announced today.

The court voted 14-6 to allow the 84-year-old former dictator to be prosecuted, Supreme Court Justice Jose Benquis said. The justices had actually voted one week earlier but kept their decision secret as the legal ruling was written.

The court turned down Pinochet's appeal of a lower court tribunal in June stripping him of the immunity he had as a senator-for-life, a post he created for himself in the constitution written by his 1973-90 dictatorship.

Trying the retired general on human rights abuse charges "could take up to eight years," admitted Eduardo Contreras, a communist lawyer who opened the long judicial process against Pinochet by filing the first of 157 criminal complaints in 1998.

His colleague Hugo Gutierrez agreed. "I do not see Pinochet going to jail," said the lawyer, who represents one of several plaintiffs in the case that has taken Pinochet closer to a court of justice that anybody could have imagined only months ago.

Police said they were stepping up security around the court building to keep pro-and anti-

Pin
Pin
FrB
Pinochet demonstrators one block apart and behind metal crowd-control fences.

President Ricardo Lagos, a socialist who was briefly jailed under Pinochet, said today the country should remain calm. The next step would be to turn the case over to Judge Juan Guzman, who would preside over the trial.

THE TELEGRAPH

- 9 AUG 2000

UN rights group criticises Pak for 'supporting violence in Kashmir'

GENEVA: Pakistan came in for a sharp condemnation at the U.N. human rights commission (UNHRC) meeting here for "supporting violence in Kashmir in the name of religion," even as world governments were urged to put pressure on Islamabad to dismantle the religious schools allegedly imparting terrorist training.

Non-governmental organisations told the sub-commission meeting during a debate on "realisation of economic, social and cultural rights" that the people in Kashmir were "tired of conflict."

"Violence continued in the name of religion as a result of Pakistan-led terrorist 'jihad' on the Kashmir soil," said Juanita Olivier of the European Union of public relations. Khalid Jahangir of the Himalayan research and cultural foundation voiced concern over the so-called 'jihad' by Muslim mujahideens saying Islam did not sanctify this 'jihad' and Islamic tenets did not approve of it.

An NGO, Pax Romana wondered how Pakistan could indirectly support calls for 'jihad' while at the same time talk of upholding democratic values.

Ms Olivier said it was a sad situation that Pakistan, a "poor country," was using its land and resources to aggress its "neighbour" and was refusing to give its people their democratic rights.

She said the developed countries had an

obligation to give priority attention to situations where there were threats to democracy.

Ms Olivier also accused the Taliban of bringing Afghanistan to the "dark ages" through repression and oppression and called for reinstalling democratic values in the strife-torn country.

Tataiana Shaumian of the international institute of peace, condemning the 'madrassas', regretted the emergence of a dangerous trend in Pakistan where young minds were inculcated with ideas of hate and violence.

She accused the 'madrassas' of actively engaging in the assembly line production of child soldiers and in effectively depriving a large percentage of children of the joys of normal childhood.

"Educational structures that taught the ideology of violence, hatred and the denial of rights of others on the basis of religion or gender should be dismantled," said Ms Shaumian while asking nation states to take a lead in this matter.

"The Taliban, like many other armed groups, was a product of the network of 'madrassas' or religious schools run by religious parties in Pakistan," she said.

Ms Tataina said the 'decay' in educational structures in Pakistan helped in the proliferation of 'madrassas.' (PTI)

THE TIMES OF INDIA

THE TIMES OF INDIA

12 AUG 2000

NHRC issues notices to Gujarat, MP

By Akshaya Mukul
The Times of India News Service

NEW DELHI: The National Human Rights Commission (NHRC) has taken a suo motu note of media reports about atrocities on minorities in Gujarat and a woman in Madhya Pradesh. Notices have been sent to the two state governments.

In Gujarat, earlier this month there were reports of the State Reserve Police forcing Muslims in Surat to sing Vande Mataram during the riots. Those who refused were badly beaten. They were called Pakistanis and asked to go back.

There were also reports that the SRP blamed the minority community for the ri-

ots. Ironically, most who died in the riots were Muslims.

In Madhya Pradesh, the NHRC has taken up the case of Lata Sahu of Panchayat Bijli village in Raipur district. She had contested for the post of sarpanch against the wife of a local leader. Though she lost, the leader along with his men insulted Lata and paraded her naked in the village. The incident took place on July 25 but the police registered the FIR only on August 4.

Sources in the commission point out that the instances of suo motu action is on the rise because many states are yet to set up their own commissions. Also, it is being felt that only a proactive policy by the NHRC can lead to a greater awareness.

THE HINDUSTAN TIMES

16 AUG 2005

Tolerance lost

By Kuldip Nayar

By smothering dissent you are only strengthening defiance. Freedom of expression is what differentiates democracy from mobocracy.

ANY YEARS ago, Jawaharlal Nehru drew the attention of Chief Ministers to the use of violence by agitators to press their demands. He quoted from an article by Yehudi Menuhin, the violin maestro, who wrote: "When I myself think of India, I think of a quality specifically Indian which in my imagination holds something of the innocence of the fabled and symbolic Garden of Eden. To me, India means the villages, the noble bearing of their people, the aesthetic harmony of their life. I think of Gandhi, of Buddha, of the temples, of gentleness combined with power, of patience matched by persistence, of innocence allied to wisdom, of the luxuriance of life from the oxen and the monkeys to the flame trees and the mangoes. I think of the innate dignity and tolerance of the Hindu and his tradition. The capacity of experiencing the full depth and breadth of life's pleasures and pains without losing a nobler resignation, of knowing intimately the exalted satisfaction of creation while remaining deeply humble, are characteristics peculiar to these villages."

Over the years, the image of that India has got rubbed off. Today, more than ever before, people try to settle issues in the streets. Violence is bordering on anarchy. By and large, all segments of society — workers, students, teachers and Government employees — have come to believe that they can gain nothing until they resort to violence and, at the slightest provocation, they are up in arms. "Crime and violence and the links between criminals, politicians and important people in society," said the President, Mr. K. R. Narayanan, in his Independence Day address to the nation, "has become almost an unholy alliance." Human rights are the first casualty in such an atmosphere. The voice in favour of the weak is choked straightaway. Those who preach peace or peaceful methods are run down. Activists talking about people's rights are characterised as anti-national. Non-governmental organisations, working at the grassroots, are a target. An atmosphere of intolerance has come to develop. Somehow, belief gains ground that a principle can be defended by indulging in violence or by attacking

the opponents to silence them. I was pained when the Union Minister, Mr. Arun Shourie, was attacked in Mumbai. I do not relish his type of politics. Nor have I liked the venom he has spewed against Muslims, Christians and Dalits in his books. But how will goondaism make him realise his mistakes? The Bajrang Dal and Vishwa Hindu Parishad were equally guilty when they destroyed the sets of the proposed film, "Water", in Varanasi.

By smothering dissent you are only strengthening defiance. Freedom of expression is what differentiates democracy from mobocracy. Such incidents indicate the determination to suppress the right of others to speak, their inalienable right. India, to recall Menuhin's words, has nourished the value system where divergent viewpoints live side by side. Bludgeoning anyone to silence him is not the approach

of tolerance, of feeling that perhaps others might have also a different point of view. For many people, there is only black and white, there are no shades. This attitude is wholly unreasonable and uncivilised. It is the old approach of the bigoted aspects of some religions. It amounts to denying human rights.

Take the recent killings at Pahalgam and Srinagar. Only the jihadi-type of fundamentalists are capable of doing so because the incidents reflect the kind of barbarism which even the fanatics hesitate to commit. No religion condones the murder of the innocent. Strange that Muslim leaders in the country should evince little interest in the happenings in Kashmir. The Sangh Parivar is exploiting the silence. A selected group among them should go to Srinagar to discuss the communal atmosphere which is beginning to prevail in the Valley and engulfing several other parts of the State. The intervention by Muslims will strengthen secular forces in the country. It is relevant to recall a memo by Dr. Zakir Husain, who later be-

came President of India, along with 13 other distinguished Muslim leaders, including members of Parliament, judges and Vice-Chancellors, sent to Frank P. Graham, the then U.N. Representative. The memo said that "no lasting solution for the problem can be found unless the position of Muslims of Indian society is clearly understood. Pakistan claims Kashmir first, on the ground of the majority of the State's people being Muslims and, second, on the ground of the State being essential to its economy and defence in its oft-proclaimed anxiety to rescue the three (now four) million Muslims from what it describes as the tyranny of a handful of Hindus in the State. Pakistan evidently is prepared to sacrifice the interests of 70 million (now 120 million) Muslims in India — a strange exhibition of concern for the welfare of fellow-Muslims.

Persistent propaganda about 'jehadi' is, indeed, among other things, to

infringe religious passions in this country. For it would, of course, be in Pakistan's interests to promote communal rioting in India to show to Kashmir Muslims how they can find security only in Pakistan. Such a policy, however, can bring untold misery and suffering to India and Pakistan generally, and to Indian Muslims particularly. Pakistan's policy in general and her attitude towards Kashmir in particular thus tends to create conditions in this country which, in the long run, can only bring to us, Muslims, widespread suffering and destruction."

The 12-year-old militancy in the Valley, particularly the Pakistan-backed attack on Kargil, has changed the mood of the public. Never before has there been so much anti-Pakistani feeling in India. Indeed, Islamabad is winning in its game of cultivating hatred in the minds of Hindus. It is trying to prove the two-nation theory, the basis on which the Indian subcontinent was divided. Unfortunately, some areas

are getting contaminated and forcing the Muslims to ventilate their anger. Gujarat is a typical example. Yes, this is the same State which wanted to permit Government employees to join the RSS. The systematic propaganda by the Sangh Parivar against Muslims is having its effect. The National Commission for Minorities, which toured the State recently, has expressed in a report its horror over the anti-Muslim bias, which has taken roots. The Commission has asked the Centre to take steps to stall the virus from spreading.

The extremists, who have the backing of the BJP Government, are harassing the minorities. For example, they are employing all methods to confine Muslims to their old areas. They are being stopped from shifting to new colonies coming up in the suburbs of Ahmedabad. Paldi is one such area. The Muslims who have even paid between Rs. 8 lakhs and Rs. 10 lakhs for flats in the multi-storey buildings have not been allowed to occupy them on the argument that "the Hindus do not want them". What it means is that the Sangh Parivar does not want mixed colonies.

Some Muslims have appealed to the National Human Rights Commission. In their petition, they have said: "Activists of VHP and its fraternal organisations have been pursuing a vicious campaign to persecute minorities in Ahmedabad and, more particularly, Muslims. As a part of their persecution of Muslims, they have been trying to prevent Muslims families from residing in certain areas of Ahmedabad, which they think, should be exclusively meant for Hindus only. Paldi is one of such areas." The Commission has been tardy in having justice meted out to the dispossessed Muslims.

It is ironical that Gujarat, which should know what pain is because of the delay in water supply from the Narmada project, is oblivious to the indignities heaped on the Muslims. One can visualise the hardships which the people in Saurashtra and Rajkot are undergoing because of the scarcity of even drinking water. They should have got it long ago. But they, like the rest of the Gujaratis, should know what suffering actually means. There can be different reasons for it. But the hurt of pain cannot be denied.

for
10-12
26/8

Russian rights group to sue Govt

REUTERS
MOSCOW, AUG 27

A RUSSIAN human rights group said it would sue President Vladimir Putin and the Government for a cover-up and inefficient action after the sinking of the *Kursk* submarine with 118 crew on board.

"We want them to tell the truth about what happened to the *Kursk*," Veronika Marchenko, head of the mothers' right group, said in an interview. "People are not fools. They know if you are lying to them or not."

"Let a court judge them as guilty. So they must apologise before the court."

The submarine tragedy has provoked a national storm of sym-

pathy for the victims and anger toward the Government, which was slow in giving details about the tragedy and in bringing in foreign help to try to rescue the crew.

Russia's failure to mount an effective rescue was highlighted

KURSK DEATHS

when a Norwegian team finally managed to open the submarine and discover that all 118 crewmembers had died.

Mothers' Right, which represents mothers of servicemen killed on duty, cannot sue the Government by itself, but must team up with family-members of the deceased.

Marchenko, whose group has existed for 11 years, said the relatives had a good case against the Government for "moral damages".

"There were violations of international conventions, such as between Russia and Norway on the Barents Sea, on making information public, on the President's activities in coordinating action and on many other points," she said.

In recent days, the Government has promised relatives a far more generous package of compensation than usual in Russian tragedies, and Putin, who stayed on vacation during the early days after the sinking was made public, has said he felt responsible and

guilty for what happened.

For now, many of the families are concentrating on seeking to have the bodies of their relatives recovered from the *Kursk*.

"The people are still not buried and many still believe that there are people alive there, so to sue now would just not be right," said Marchenko, adding that cases would likely begin in the coming months.

"Later, we will speak to individual-families, because each suit will have the details of a specific family."

Mothers' Right has already written to the US, British and Norwegian Embassies seeking details of when they first offered assistance in the tragedy and what Moscow said in return.

INDIAN EXPRESS

INDIAN EXPRESS

28 AUG 2001

NHRC tells J&K Govt to pay compensation for custodial death

New Delhi, August 30

TAKING SERIOUS view of "police brutality of an obnoxious nature", the National Human Rights Commission (NHRC) has ordered the Jammu and Kashmir Government to pay interim relief of Rs two lakh to the dependents of one Ghulam Rasool, who died during custody.

The Commission, which has asked the state government to initiate departmental action against the officials responsible for death of a young man, said: "The interim relief be recovered from those delinquent officials, who by their illegal acts have incurred the primary liability, for which the state is held vicariously liable."

The NHRC took up the case after the post-mortem report by a team of doctors, conducted in the presence of additional district magistrate of Kathua, stated the cause of death as cardio-respiratory arrest due to dislocation of the cervical spine leading to the compression of the spinal chord.

The report also records ante-mortem injuries of a serious nature on the scalp, face, back, left arm, left eye, limb, right lower limb. The nature of injuries reveal brutal treatment by beating as well as burns, the NHRC said adding that

the doctors opined that injuries, together with the dislocation of the cervical spine, resulted in the death.

In response to the Commission's direction, J & K Inspector General of Police and the State Deputy Secretary had sent the reports together with inquest, post-mortem and magisterial inquiry report, which had recorded statements of 27 witnesses.

The report revealed that Rasool was arrested along with two others on the statement of one Sardu who was arrested earlier. The three persons were handcuffed and brought to the police-post in Hatli, the NHRC said.

It is alleged that after preliminary inquiry, the chowki officer demanded Rs 10,000 from each of them which they could not give, the NHRC said.

Thereafter, they were interrogated in the chowki officers' room for six hours and then shifted to the lock-up, it said adding the next day, the guard on duty had stated that all the persons had wounds on their body and were crying.

Later, Rasool complained of severe pain in his stomach and requested for medical attention. A doctor later declared the prisoner dead on examination, the NHRC said. (PTI)

THE HINDUSTAN TIME.

31 AUG 200

Denounce activists, NHRC tells VHP

NEW DELHI, JUNE 30. The National Human Rights Commission (NHRC) has asked the Vishwa Hindu Parishad and the Bajrang Dal to denounce their activists who were allegedly involved in propagating "anti-Christian" statements, in order to restore harmony in the country.

"We have asked the senior vice-president of the VHP, Mr. Giriraj Kishore, and Bajrang Dal's all-India convenor, Mr. Surendra Jain, to tell their activists, whose names have appeared as having made inciting statements, to deny the charges publicly. And if they refused to do so, the organisations should then denounce them," the NHRC chairperson, Mr. J.S. Verma, told PTI here.

The leaders of the VHP and the Bajrang Dal had called on the Commission on Tuesday to clarify their stand, he said.

He also said the NHRC was awaiting reports on the steps taken in the aftermath of attacks on Christians but believes the administration has got "activated" to avoid such incidents.

"The Commission had given two weeks for response. By the reports appearing in various sections of the media, I believe that the administration has got activated and they are taking some action," Mr. Verma said.

In the wake of several incidents of attacks on Christians and their institutions, the NHRC had issued notices to the Centre and all State

and Union Territory Governments and sought reports on steps taken to meet the situation.

Meeting with Christian leaders

By Our Special Correspondent

NEW DELHI, JUNE 30. The top brass of the Vishwa Hindu Parishad (VHP) and Bajrang Dal will meet Christian community leaders here on July 11 to remove "discord, disharmony and misgivings" between the two communities. The breakthrough to convene such a meeting came at the initiative of the National Commission for Minorities

Details on Page 11

THE HINDU

7 1 1 7 7

New jail manual will implement NHRC recommendations in J&K

The Times of India News Service

SRINAGAR: The state cabinet, at its meeting here on Friday approved the new jail manual for Jammu and Kashmir, replacing the old Punjab manual which was adopted by the state government in 1933. The new jail manual will implement the recommendations of the National Human Rights Commission, in respect of rights and duties of the prisoners, including their requirements of diet, medical care, canteen facilities, interviews, legal aid and vocational training.

The new jail manual recognises prisons as centres of correctional treatment, where the major emphasis would be on the re-education and reformation of the offender. The institutional environment and treatment shall aim at producing such constructive changes in the offender, as would have profound and lasting effects on his habits, attitudes, approaches and on his total value scheme of life, says the manual, which was prepared by a nine-member committee headed by the principal secretary, home, C. Phunsoo. The prison administration should aim at ensuring the return of

an offender to society capable of leading a well-adjusted and self supporting life.

The new jail manual assures that there should be no discrimination among the offenders on grounds of race, colour, sex, language, religion, politics or ideology, nationality or social origin or other social handicaps and promises, the jail administration shall uphold the dignity and self-respect of the detainees. The jail administration will utilise all remedial, educational and moral forces to make the detainees socially acceptable. The manual also promises to end overcrowding in the jails and says, "The number of prisoners not be so large to hinder individualised treatment." The jail administration shall attend to the long term needs of the inmates.

Due to the outbreak of militancy in 1990, the number of persons detained under the J&K Public Safety Act and undertrials connected with militancy have increased considerably. Despite the spurt in the number of jail inmates in the last decade, the existing two central jails of Srinagar and Jammu, one special jail, seven district jails and three sub-jails, provide adequate accom-

modation to the present prison population. The government is going to open one district jail and one sub-jail at each district and sub-divisional headquarters. The state had introduced the jail panchayat system in 1968 when the elected jail panchayat was associated with the routine jail administration. The jail panchayat is involved in collection of ration articles and its quality and quantity for the inmates. This mechanism is now being increasingly promoted as an instrument of self-management and self-improvement among prisoners.

The new manual has separate chapters on scientific classification of prisoners, education, recreational, vocational training, after care and rehabilitation of prisoners. Education and recreation will help mitigate the adverse effects of incarceration and monotony that the prisoner undergoes. To save the first offenders from being crime-infected, if mixed with hardened criminals, scientific classification of prison inmates has been planned. Young offenders would be segregated from the adult inmates to avoid contact with the criminals.

THE TIMES OF INDIA
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THE TIMES OF INDIA

NHRC directs Andhra for probe

New Delhi, July 2

NATIONAL HUMAN Rights Commission (NHRC) has directed Andhra Pradesh Government and state police Director General to report within two weeks regarding suicide by High Court advocate Sangeeta Sharma due to alleged sexual harassment by fellow lawyers.

The commission has also sought help of Bar Council of India (BCI) and the Bar Association of India (BAI) in examining the issue of sexual harassment in the legal profession throughout the country.

After receiving a petition from Asmita Resource Centre for Women, the commission has asked State Chief Secretary to reply within two weeks regarding the matter including the current status of the criminal investigation.

The matter, in addition to the specific incident alleging harassment of an advocate, raises also the larger issue of sexual harassment of lady advocates

whose number is now considerable throughout the country," NHRC said after having a full meeting of the commission. "The commission also considers it necessary to examine the question of sexual harassment of fellow professionals engaged in the legal profession throughout the country.

"To enable the commission to do so, the assistance of the BCI and BAI at this stage would be helpful. In view of the fact that the case relates to Andhra Pradesh High Court it is also considered appropriate to request for the assistance of the State Bar Council as well as the AP HC Bar Association," NHRC said.

Sharma committed suicide on June 15 alleging sexual harassment by certain fellow lawyers and senior advocates, the petition by Asmita Resource Centre for Women said.

The Centre said Sharma had approached them for help but was unwilling to divulge in public the names of those harassing her, as she feared harmful consequences for her and her child. (PTI)

THE HINDUSTAN TIMES

3 JUL 2000

Bihar minister sacked for torturing driver

Human Rights 5/11
11/7

STATESMAN NEWS SERVICE

PATNA, July 10. — The Bihar minister of state for co-operatives, Mr Lalit Yadav, was sacked today by the Governor, Mr VC Pandey, on the chief minister's advice late last night, for unlawful detention and torture of Dinanath Baitha, a Dalit truck driver, and his helper for 32 days. The minister was also suspended from the party by the RJD chief for six years. Baitha was rescued by the police from the minister's official residence last Saturday.

According to the case registered with the Sachivalay police station, Baitha and his helper, Karu Ram, were held in the outhouse of the minister's official residence for more than a month. During the time, the minister's men allegedly broke Baitha's arms and tore out his toe nails. During his 32 days in captivity, the minister and his relatives used to beat him up every day till he lost consciousness. They also used to urinate into his mouth, a badly bruised Baitha said. "The minister and his men used to beat me up till I fainted", he told the police.

The purported punishment was for the theft of a truck supposedly owned by a relative of the minister on 7 June. Baitha and Karu Ram pleaded they had been drugged into sleep at a dhaba in Hajipur and the truck stolen in connivance with the owner of the dhaba. But the minister was not convinced. "We ate at the dhaba and slept asking the dhaba-owner to wake us up early in



Mr Lalit Yadav (above), the sacked Bihar minister, and Dalit driver Baitha (right), who was tortured for over a month at the minister's house. — Nalin Verma



the morning. When I got up I found the truck was gone", Baitha later told the police.

Reports of the incident generated a furore in political circles of the state. The Opposition, even the Congress mounted pressure on Mr Laloo Prasad Yadav and Mrs Rabri Devi to get the minister sacked.

Mr Laloo Yadav said the chief minister had recommended the the minister's dismissal after procuring reports from the state home secretary and the director-general of police. "No one taking law in his hands will be spared whosoever he is", he said. The minister is absconding. A case under section 345 of the Prevention of Atrocities on Dalits Act and various sections of the IPC has been instituted against him.

Mr Sushil Kumar Modi, leader of the Opposition, today

demanded immediate arrest of Mr Lalit Yadav.

The National Human Rights Commission today sought a report from the Bihar government and state director-general of police on the incident. It issued a show-cause notice asking why monetary compensation should not be given to the victims, reports PTI from Delhi.

The water resources minister, Mr Jagdanand Singh, told the Assembly that Baitha had not been taken into custody, and was being sent to his native village to attend his daughter's wedding. He would also be paid compensation, he said.

■ Terror of Darbhanga, page 6

NHRC concern over attacks on Christians

By Our Legal Correspondent

NEW DELHI, JULY 10. The National Human Rights Commission (NHRC) today granted two more weeks to the Centre and State Governments to inform it about the steps taken by them to meet the situation arising out of attacks on Christians and their institutions. Shocked over increasing incidents of attacks on Christians, the Commission had earlier asked the Chief Secretaries of the States and the Union Territories as well as the Union Home Ministry to submit their response.

Amid reports of fresh attacks on churches in Karnataka, the full Commission met today to take stock and found that most Governments had not responded favourably to the notice. Concerned over the lack of response, the Commission decided to grant two more weeks for them to submit their reply.

Fresh notice to U.P.

The Commission also issued a fresh notice to the Uttar Pradesh Government as to why compensation should not be paid to the

family of the cook of a Christian priest who died in Mathura on June 17 under mysterious circumstances.

It was reported in newspapers that the cook, Vijay Kumar Ekka, who was a key witness in the murder case of Brother George Kuzhikandam was tortured to death by police. The Archbishop of the Agra Diocese, Vincent Concessao, had alleged that the cook had been tortured to death in police custody.

Torture of driver, cleaner

Reacting to the alleged torture of a truck driver and a cleaner by the Bihar Minister of State for Cooperation, Mr. Lalit Yadav, the NHRC called for reports from the Bihar Government within two weeks.

Taking *suo motu* cognisance of newspaper reports about the alleged illegal detention of the driver and two others, all Dalits, the Commission also issued notice to the Chief Secretary and the State DGP asking why compensation should not be given.

Hindu-Christian meet off: Page 13

Minister's torture chamber

What else can be expected from history sheeters?

RABRI DEVI'S sacking of Lalit Yadav was peremptory but justified. The Rashtriya Janata Dal minister can defend himself in court when (and if) criminal charges are brought against him. At this stage it is important to strip him of his powers and curtail his capacity for further mischief, for tampering with evidence and intimidating witnesses. The allegations against the minister by his victims were recorded by television cameras and broadcast the previous night. Any one who heard the pitifully frail Dinanath Baitha and Karu Ram speak of being illegally confined and tortured in the minister's house for a month, anyone who saw their injuries and bruises, would have a hard time discounting any of the charges. Furthermore, their release from the minister's house by the Patna police confirms the basic fact that they were being held against their will. On the face of it, there was plenty of evidence to support Yadav's dismissal from office. There is little he could say to exonerate himself. That did not, of course, prevent him from trying. In a scene typical of today's political tamashas, Lalit Yadav called a Press conference to deny knowledge of any criminal acts and immediately thereafter absconded from the law. He is still to be found and charged by the police.

The chances of him being brought to justice are slim unless there is an unequivocal message from the top. Sacking him is only half the job done. Rabri Devi and Laloo Prasad Yadav's motives so far have been exclusively political. Lalit Yadav is bad news for the RJD. Dalit anger, pressure from the Congress high command and the sound of the

RJD's enemies sharpening their knives all produced prompt action. The political act of distancing the party and government from Yadav having taken place, the Chief Minister will expect to escape the worst and feel nothing more needs to be done. But the Dinanath Baitha and Karu Ram case is not only about Bihari politics. It is necessary to pursue it to its logical conclusion which is the arrest and prosecution of Lalit Yadav and his accomplices. The law must be upheld and others deterred from abusing power. All the underlings who acted at the minister's behest or stood passively by while the criminal acts were committed must learn that the law even in Bihar has awesome authority.

Lalit Yadav is one history sheeter whose political advancement has been arrested, temporarily at least. This is entirely fortuitous. Like others with criminal pasts in the RJD, not to mention other political parties, who thrive under the umbrellas of their parties, Yadav would probably have carried on for many years undisturbed. The system remains deeply corrupted by the criminal-political nexus. By making themselves indispensable to political leaders and because of their clout in their home districts, history sheeters commandeer tickets at elections and then cabinet berths. In power they go on to become a worse menace to society, and especially to the weak and powerless sections. Thanks only to the media and human rights activists' pursuit of the case, Lalit Yadav has been found out and stopped in his tracks. It remains to be seen whether anything durable will be learned from the suffering Dinanath Baitha and Karu Ram went through.

INDIAN EXPRESS

12 JUL 2000

Rights panel vetoes new terrorism law

The Times of India News Service
NEW DELHI: In an embarrassing setback to the Vajpayee government's plans to resurrect a more 'humane' version of TADA, the National Human Rights Commission (NHRC) has said there is no need for the government to enact the Prevention of Terrorism (POT) Bill, 2000, or any similar law.

The government had recently proposed the enactment of POT 2000 in place of the now lapsed Terrorist and Disruptive

Activities (Prevention) Act (TADA). According to the NHRC, however, the existing laws are sufficient to deal with any eventuality, including terrorism.

"This unanimous view was taken at a meeting of the full commission held on July 11 to formulate its opinion on this bill. It reviewed the draft bill, the 173rd report of the law commission, relevant supreme court judgments and the views of NGOs in this regard," an official note said.

► **Govt. suffers setback, Page 7**

LTTE recruits children forcibly: rights group

COLOMBO: Sri Lanka's Tamil Tiger rebels are forcing children to join their ranks to fight government troops and many of the youngsters are being killed in action, a human rights group said.

The University Teachers for Human Rights (Jaffna) said in a report on Wednesday the forcible recruitment had increased since the rebels launched an offensive to re-capture the northern Jaffna peninsula in April.

"We have it on good authority that if the term voluntary recruitment has any meaning when applied to children, only five per cent go willingly," the report said.

The LTTE has in the past been accused by the government of recruiting child soldiers and breaking international norms even after promising the United Nations in 1998 that they would not recruit anyone less than 17.

The rights group, made up mostly of Tamils who used to teach at Jaffna University, said a fresh child-recruitment drive began on May 5, soon after the rebels captured the key Elephant Pass military base on an isthmus connecting Jaffna with the rest of the country.

The rights group, considered treacherous and unpatriotic by the LTTE, said many of the young soldiers being drafted into rebel ranks were girls, some as young as 13 years old.

"Girls have been in a large majority in the current round of

recruitment in schools (in the northern LTTE-held Wannai area)," the report said. The human rights group also accused the government of extra-judicial killings, torture and cover up of incidents involving attacks on civilians by the security forces.

The 18-page report also said the government was using censorship to cover up atrocities against civilians.

The rights group said it had reports of girls who wanted to leave the Tamil rebel group being severely beaten.

More than 1,000 children were hospitalised with serious wounds from recent fighting while children killed in combat were increasingly victims of heavy weapons, the report said.

"Unlike in the earlier phases of fighting where small arms played a dominant role, most of the young being killed on the LTTE side...Are now brought home in sealed coffins as they had been mangled by shelling," it said.

The report said of 15 children who joined the LTTE between April 1999 and early this year from a school in the Mallavi area of the Wannai, the bodies of six were brought back to their school for display before their funerals.

"This ceremony is intended to give the dead an aura of heroism and make the others guilty about not joining," the report said. (Reuter)

Implement laws, you won't need TADA-II, says NHRC 96-5

EXPRESS NEWS SERVICE
NEW DELHI, JULY 12

The National Human Rights Commission (NHRC) has taken the view that there was no need for the enactment of the Prevention of Terrorism Bill, 2000 or a similar law. This unanimous view was taken at a meeting of the Full Commission held on July 11 to formulate its opinion on the Bill. The Commission at its meeting reviewed the draft Bill, the 173rd Report of the Law Commission, relevant Supreme Court Judgements and the views of various NGOs in this regard before expressing its opinion

on the Bill.

The Commission also noted that on the then existing Terrorist and Disruptive Activities (Prevention) Act, the Commission had in 1995 taken the view that such draconian law should be removed from the statute book as it had no place in a democracy. Unless there were "compelling reasons to depart", the earlier view should prevail, the Commission noted.

The meeting of the Commission noted that the issue should be examined not from the point of view of constitutional validity of the new law and its provisions, but it should deliberate upon the need and wisdom of enacting such a law

in the light of the previous experience with the earlier TADA legislation, the adequacy of the existing laws, the provisions of the international covenants which India is signatory to.

After considering the pros and cons of the matter, the Commission, it was pointed out, was fully convinced that the existing laws were sufficient to deal with any eventuality including terrorism, if properly enforced. The real need was to strengthen the machinery for implementation and enforcement of the existing laws and for this purpose the working of the entire criminal justice system needed to be strengthened the Commis-

sion felt. It was also pointed out that in 1995 the Commission had conducted a full-fledged examination of all aspects of TADA on the basis of reports and complaints received by it concerning its arbitrary and abusive uses. And the Commission took the view that this draconian law be removed from the Statute books.

The then Chairperson of the Commission had written a letter to Parliamentarians in February 1995, recommending that the Act be not renewed when its life expired on May 23, 1995 on the grounds that it was "incompatible with our cultural traditions, legal history and treaty obligations."

INDIAN EXPRESS

13 JUL 2000

140-1
15/7

NHRC reasoning unacceptable: BJP

By Our Special Correspondent

CHENNAI, JULY 14. Joining issue with the National Human Rights Commission, the BJP today underscored the need for "special laws" to deal with terrorism and called for a consensus on drafting a new legislation.

The BJP all-India general secretary, Mr. Venkaiah Naidu, told reporters that the party was "unable to accept" the views expressed by the NHRC that the existing laws were sufficient to deal with terrorism.

While admitting that there was need for provisions and safeguards against misuse of any new stringent Act, he said normal laws were not enough to fight forces engaged in terrorism to bring about disintegration of the country.

Specifying the "proxy war by Pakistan in Kashmir, insurgency in the north-east and ISI activities in different parts of the country" as "special situations" needing "special laws",

Mr. Naidu said there was need to combat those who thought of India as a "soft state" and those who interpreted "tolerance" as "weakness".

In areas where there existed a conflict between national interests and individual rights, the "national interests must prevail". The Law Commission, he pointed out, had referred to the need for special legislation to deal with terrorism.

As late as December last, the NHRC itself had felt that there could be a special law to deal with terrorism if provisions to prevent its misuse were included in the Act.

The Centre must take the initiative to form a broad national consensus. Parliament could debate the legislation. Apprehension on one count or the other should not stand in its way of passing the anti-terrorism legislation.

On autonomy, Mr. Naidu said the Centre was prepared for a dialogue with the National

Conference while being firm against restoration of the pre-1953 status for Jammu and Kashmir. The Cabinet had rejected the autonomy resolution without placing it before Parliament as a debate in the House could have given scope for "misinterpretation".

The NDA Government recognised the "special status" of the State. This was why the NDA agenda for governance was against abrogation of Article 370 (special status to Jammu and Kashmir), he said. However, he would not say the BJP had given up its demand for abrogation of the Article. "We are not pursuing it (the demand) as that does not find acceptance among the partners of the NDA."

On the arrest of members of the 'Deendhar Channabasaveshwara Siddique' for their involvement in the explosions at churches in Goa, Karnataka and Andhra Pradesh, he said there was a "conspiracy" and more details were expected to come later.

THE HINDU

15 JUL 2000

NHRC refutes Govt. stand on terrorism law

By J. Venkatesan

NEW DELHI, JULY 14. The National Human Rights Commission (NHRC) has refuted the Centre's justification for a new terrorism law and warned that if the proposed legislation was enacted it would result in gross misuse and violation of human rights.

Joining issue with the Union Home Ministry which had stated that a new law was necessary to deal with cross-border terrorism and insurgency, the NHRC at its full meeting held today reiterated its earlier stand "that there is no need to enact a law based on the draft Prevention of Terrorism Bill, 2000".

In its unanimous decision, the NHRC was of the view that "needed solution can be found under the existing laws, if properly enforced and implemented and amended, if necessary". The Commission's opposition to the new law would cause further embarrassment to the Government, which is keen on bringing a legislation in the monsoon session of Parliament. The Commission said the proposed Bill, if enacted, would have the ill-effect of providing unintentionally a strong

weapon capable of gross misuse and violation of human rights which must be avoided particularly in view of the experience of the misuse in the recent past of TADA and earlier of MISA of the emergency days".

Disagreeing with the Law Commission for suggesting the new law, the Commission felt that "such a course is inconsistent with our country's determination to combat and triumph over terrorism in a manner also consistent with the promotion and protection of human rights". Pointing out that the Bill was silent on ensuring a check on financing of terrorism, the Commission favoured enacting a suitable law in this area. The Commission drew the attention of the Government to a resolution passed at the United Nations General Assembly in December 1996 calling upon States to take steps to prevent financing of terrorists through domestic laws.

Giving a clause by clause analysis, the Commission said the kinds of actions mentioned in the new Bill, viz. threatening the unity, integrity, security or sovereignty of India "are covered by Section 153-B of the Indian Penal

Code". Apart from IPC, "there is the Arms Act, Explosives Act, Explosive Substances Act and the Armed Forces (special powers) Act" which are sufficient to deal with any type of situation.

It said the Unlawful Activities (Prevention) Act could be suitably modified, if required. The Suppression of Unlawful Activities against the Safety of Civil Aviation Act was already in the statute book to deal with offences against safety of civil aviation. "In addition, there are four Central Preventive Detention Acts and a number of such Acts enacted by the States."

Referring to delays in securing convictions under the existing laws, the Commission said the problem could not be solved by enacting laws that do away with the legal safeguards that were designed to prevent innocent persons from being prosecuted and punished.

Pointing out that India was a signatory to various international conventions, the Commission concluded that the Bill "would hinder, rather than enhance the effective implementation of treaties and international instruments on human rights".

THE HINDU

15 JUL 2000

Jethmalani opposes new terrorism law

NEW DELHI: Law minister Ram Jethmalani is opposed to the proposed law on terrorism and will soon explain to the cabinet why it should not go ahead with the prevention of terrorism bill, 2000 as recommended by the law commission.

"I am personally totally against enactment of any special law against terrorism as it is bound to be misused by the police," Mr Jethmalani said.

"Now that the National Human Rights Commission (NHRC) has reacted sharply against the enactment of the prevention of terrorism bill, I will soon write a detailed note against the proposed bill recommended by the law commission and forwarded it to the union cabinet," he said.

The government had said in response to the NHRC objection that the proposed law "strikes a very nice balance" between the requirements of combating terrorism and protecting the essential human rights of the accused.

Asked whether the NHRC could reject a bill and advise the government not to enact a particular law, the law minister said "The NHRC has no such mandate to advise the government to either enact a particular law or not. It was a body set up to deal with the human rights violation cases alone."

The NHRC on Friday rejected the government's defence on a draft bill on the lines of TADA and categorically said "there was no need to enact such a law."

However, Mr Jethmalani said

the NHRC was supposed to react to all legislations which it felt would violate human rights of the citizens or would be an instrument in the hands of the authorities to abuse power.

"The NHRC feels the provisions in the proposed prevention of terrorism bill will be inconsistent with the human rights of the citizens. That is why it has reacted in this manner," the law minister said and added that the existing laws were enough to meet any untoward incidents arising out of insurgency, militancy and terrorism.

The NHRC had taken a similar view and said there was no need to enact the new terrorism law as solution to the problems could be found under the existing laws, if properly enforced and implemented. (PTI)

INDIAN EXPRESS

17 JUL 2000

Rights meet to focus on migrant labour, fishermen

HT Correspondent
New Delhi, July 19

MIGRANT LABOUR, women prisoners, fishermen, kidnappings and trafficking are likely to be the focal points at the founding convention of South Asian Initiative for Human Rights. The convention is being spearheaded by former Prime Minister Inder Kumar Gujral, human rights activists Asma Jehangir, Dr Mubashir Husain and Mr I.A. Rehman from Pakistan and Dr Kamal Hossain former Minister from Bangladesh among others.

Addressing a press conference here today Mr Gujral said that the two-day convention will explore possibilities of bringing together human rights organisations and evolving strategies of common interest. It will also strive to raise respect and awareness of human rights in the South Asian region: "The focus would be on those marginalised or discriminated against on basis of faith, ethnicity, gender, politics or social status" Mr Gujral said.

The founding convention, slated to be held at Neemrana in Rajasthan, will see a convergence of over 100 delegates from Bangladesh, Nepal, India, Pakistan and Sri Lanka. While the contin-

gent from Pakistan has already arrived, delegates from other countries are expected tomorrow. The picturesque fort of Neemrana, some 90 km off Delhi, has been chosen because it would give an opportunity to "sit and stay together" as Mr Gujral chose to put it: "We need to see if we can visualise commonalities in perceptions in these two days" he said.

Ms Asma Jehangir, on her part, said that the initiative is not limit-

"The focus would be on those marginalised or discriminated against on basis of faith, ethnicity, gender, politics or social status"

ed to setting up an organisation: "It is more a movement which is ready to take off" she said even while she added that till people's rights are respected tensions will continue. Governments, Ms Jehangir said, must change their roles: "They cannot be schoolmasters anymore," she added.

On a specific query whether Indo-Pak relations will be discussed at the conference, Ms Jehangir said: "When we are dis-

cussing issues things may crop up. So while we are not averse to discussing India and Pakistan, we are also mindful that this is not the only issue. We do not want to fall in this trap." Dr Mubashir Husain, on his part, said that issues of conflict have been addressed for several years now: "Yet important issues like human rights and rights of common citizens need attention," Dr Husain explained.

While Mr Kuldip Nayyar, MP, who also addressed the press conference said that the convention would usher in a "pluralist kind of polity," Mr Rehman said that the initiative would campaign for the creation of regional instruments and mechanisms for guaranteeing uniform protection for human rights. Politics, he said, is an important and integral part of any initiative and no issue can be discussed without it: "There is politics in everything. Even if we want to provide drinking water, it cannot be isolated from politics," Mr Rehman said adding that politics cannot be delinked from vital issues.

Woman activist Dr Syeda Hameed, however, described the convention as being one, which will give a gender focus to key issues even while it will deliberate the key areas of economic disempowerment of women.

THE HINDUSTAN TIMES

Govt woos NHRC over terrorism bill

SANTWANA BHATTACHARYA
NEW DELHI, JULY 19

UNION Law Minister Ram Jethmalani today sought to soothe the National Human Rights Commission (NHRC) chairman J.S. Verma's temper and convince him to agree to the new Prevention of Terrorism Bill which is to be tabled during the monsoon session of Parliament.

In an hour-long closed-door meeting with Verma, Jethmalani is believed to have assured the NHRC chief that the Commission's objections against certain provisions of the Bill will be taken into account.

According to sources, the meeting was organised so that there could be a consensus on the Bill. The NHRC had earlier expressed strong reservations against

the new Bill which has been drafted by the Law Commission.

The meeting was significant as the Government and the NHRC have been publicly expressing divergent views on the new anti-terrorism Bill.

The objections were mostly between the Home Ministry and the NHRC, with the former insisting on backing the Bill on the logic that it both curbs terrorism as well as protects human rights.

The Government's view was opposed by the NHRC, which felt that the various provisions of the Bill can be misused by the authorities and lead to serious human rights violation.

The NHRC's objections had prompted Union Home Minister L.K. Advani to issue a statement assuring the Commission that it would be consulted on the issue.

Lanka flouting international treaty obligations: Amnesty

P.K. Balachandran
Colombo, July 20

AMNESTY INTERNATIONAL (AI) has slammed the Sri Lankan Government for not meeting its international treaty obligations in regard to detention, inquests and judicial remedies, and extending the State of Emergency island-wide after the country was put on a "war footing" in May this year.

In its report on Sri Lanka released on Wednesday, AI said that while national security concerns in the north were evidently critical following the LTTE's assault on Jaffna, government had given no reason for the imposition

of the emergency, with its sweeping powers, island-wide.

AI pointed out that human rights might be suspended when the exigencies of a situation strictly required such suspension and when the suspension did not conflict with the country's other international obligations.

The UN Secretary General has to be informed about the suspension and told why there has to be a suspension of rights. AI pointed out that according to the Human Rights Committee, Sri Lanka had not met its international treaty obligations vis-a-vis disappearances, detention, torture and the judicial process. The AI, however,

makes no mention of the human rights violations of the LTTE in the Wanni, where the organisation recruits 10 to 15 year old kids for combat roles, uses its control over food distribution to force compliance, and in Colombo where it carries out indiscriminate terrorist bombings killing innocent civilians.

Meanwhile, Lanka and Thailand have agreed to share intelligence on the LTTE. This understanding was reached between the Lankan Defence Secretary with Thai Deputy Premier. Banyat Bautadtan, in Bangkok recently. The Thai Minister had assured him that the "LTTE terrorists" would not be allowed to use Thai soil.

Christian jitters at UN rights meet

FROM PRANAY SHARMA

New Delhi, July 30: For once well-armed to fight off India-baiters at the UN human rights conference over Kashmir, India is still having to scramble for cover with continuing attacks on Christians.

Aware that the issue is likely to be raised at the high-profile UN Human Rights Commission conference beginning in Geneva tomorrow, frantic last-minute attempts were being made by Indian officials to build a strong defence. But they have found very little with which they can put up the ramparts.

Statements by Prime Minister Atal Behari Vajpayee and home minister L.K. Advani are possibly the only building blocks they can lay their hands on. Both have made it amply clear that attacks on Christians were "an aberration" in India, which has always espoused religious tolerance. The government has vowed to deal

severely with the guilty.

These assurances have fallen short of convincing the outside world, specially Christian-dominated West, since the attacks are taking place in a steady stream. As recently as yesterday, a priest was stabbed to death in Andhra.

For more than a decade now, the Geneva conference has been the most convenient forum for Indian-bashers, but so far the focus of their attack has been New Delhi's human rights record in Kashmir. Initially, Indian officials were on the defensive, but over the years they have learnt to ward off the offensive.

The year 1994 was a turning point when India scored a diplomatic victory over Pakistan. Vajpayee, who was then the leader of the Opposition, along with the minister of state for foreign affairs Salman Khurshid, had succeeded in getting the support of Iran and China to tell Pakistan that its anti-Indian resolution on Kashmir, if moved at the con-

ference, would be defeated. Pakistan backed off.

Some of the world's worst human rights abuses in the past few years in eastern Europe — Bosnia and Chechnya, for instance — diverted international attention from Kashmir.

With the nuclear tests in South Asia two years ago and the Kargil confrontation, India and Pakistan are again in focus.

There will be the inevitable Pakistani attempt to highlight Kashmir, but Indian officials are not unduly worried by that prospect. The confidence stems from some of the steps taken by the government and other developments in Kashmir, the latest being the ceasefire and talks offers.

This time, India had a chance to crow about this achievement and it still might: one, to beat back a customary Pakistan attempt to highlight the human rights record in Kashmir and two, as a ploy to divert possible criticism of

the attacks on Christians.

Between 1998 and 1999 when reports of attacks on Christians first started appearing, the Indian government managed to convince the international community that the BJP coalition would not digress from the country's secular tradition.

They succeeded despite the gruesome killing of Graham Staines and his two boys. However, the fresh spurt of attacks this year has swung the focus back on the stigma of "Hindu fundamentalist party" the BJP has not been able to shake off in the West.

During last month's visit to Italy, Vajpayee managed a meeting with Pope John Paul II in an obvious gesture to assure the world that Christians were safe in India.

But a string of incidents since has invested that assurance with a hollow ring. Delhi has tried, unsuccessfully, to shift the blame on organisations funded and aided by hostile neighbours.

THE TELEGRAPH