

Rights in a broader perspective

H.O.R. 28/10/99
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The F. Post

Last year we observed the 50th anniversary of the Universal Declaration of Human Rights. In recent years human rights assumed special importance in the fabric of international relations. It is also widely admitted that the observance of basic human rights is the corner-stone of peace and security of nation-states. The quest for human rights has become a fundamental aim of the world community. We have witnessed considerable efforts to develop national, regional and international measures for the protection and promotion of human rights throughout the 20th century. But the implementation of human rights is yet to reach its destination.

Problems of Implementation

Although there are about one hundred international covenants, conventions, declarations and regional human rights instruments, human rights are yet to be established throughout the world. Every moment human rights are being violated at national or international levels. Provisions of the United Nations covenants on civil and political rights are far removed from the actuality of civil and political life in many of the newly independent states of the Third World. There are certain drawbacks to the implementation of human rights. Like international law, human rights instruments have also some inherent weaknesses.

But in order to implement human rights for the people at large, we have to overcome all sorts of weaknesses which are existing in the field of its implementation. In this regard, first of all we have to find out the drawbacks or problems in implementation of human rights. The obstacles which are creating problems to implement human rights are discussed below.

Concept of State Sovereignty

In order to implement human rights, states can take appropriate measures. But if we consider the existing situation in the application of human rights, it will be clear that the greatest onslaught on the implementation of human rights comes from the state parties. The primary obstacle here is that of the concept of state sovereignty. The sword of national sovereignty is still hanging over the head of the concept of human rights.

Declaration of Emergency

Sometimes declaration of emergency proves itself as an obstacle to the field of implementation of human rights. Effects of emergency on human rights have been most grave. Selective use of emergency, adversely affects the life of ethnic, linguistic and religious minorities and their family life, thus violating the rights to non discrimination and self-determination.

National Security Doctrine

National security doctrine is creating problems in the field of implementation of human rights. Often in the developing countries in the name of national security or stability, political parties and political activities are prohibited and the former ruling elites are presented. This situation is certainly against the implementation of human rights. Misuse or improper use of national security doctrine creates problems in the way of implementation of human rights.

Problems in Dealing with Inter-state Complaints

Owing to the proliferation of, human rights instruments, the same matter is quite often found to fall within the jurisdiction of several institutions, hence giving rise to conflict of jurisdiction. The United Nations has not utilised the expertise of its specialised agencies in improving its international measures of implementation. There is poor coordination between the human rights bodies of the United Nations and those of the specialised agencies. These situations are also creating problems to implement human rights.

Concept of Available Resource

Implementation of the International Covenant on Economic Social and Cultural Rights (ICESCR) is subject to the maximisation of available resources. In order to implement the rights mentioned in the ICESCR fully, a country must be economically strong and its social condition must also be favourable in this regard. A country which is not economically strong or the social condition of which is not favourable, cannot implement these rights in full.

Double Standards of the United Nations

In the late 1970s, and the early 1980s, certain western countries criticised the UN human rights movement for following double standards. The basis of the criticism was that while the United Nations readily and unreservedly condemned the human rights violations committed by authoritarian states like Argentina and Chile, it was indifferent to such violations in totalitarian states like Cuba. Similar criticism has been made in the 1990s too. The basis of the criticism is that while the UN system is quite assertive in taking action against human rights violators like Iraq, it is indifferent to similar violations by countries like Turkey. The following of double standards is an obstacle in respect of the implementation of human rights.

Various measures and actions should be taken to combat racism and racial discrimination on the national, regional and international level. High priority is to be given to providing assistance and relief to victims of racism and all forms of racial discrimination. Violation of individual rights remains an issue of concern. It is to be kept in mind that the whole society will suffer if individual rights are not protected. So, protection of individual rights will help in the way of implementation of human rights.

pollution is also one of the main problems for the implementation of human rights. Every now and then the big powers are violating human rights by polluting environment in many ways.

Recommendations

Human rights can be ensured in a state if the government of that particular state is aware of it. Only the state machinery can implement human rights in its territory. The governments of the states must be committed and sincere. Human rights need protection by national institutions, which in turn can only grow and sustain in an atmosphere where fundamental democratic norms are respected. Observance of minimum standard is thus part and parcel of the institutions, which can protect and implement them. So, the governments have to establish human rights institutions in each and every state, such as human rights commission, office of ombudsman etc. Building or rebuilding national infrastructure for the protection of human rights is essential.

The United Nations has to take appropriate measures to implement human rights in the world. The jurisdiction of the existing human rights machinery should be increased. The human rights programme of the United Nations receives about 1 per cent of the total budget of the organisation. The financial crisis of the United Nations should be removed. Budget and official staff for human rights programme should be enhanced.

Imbalance in the enjoyment of property and natural resources is an obstacle in the field of human rights. There exists imbalance in the enjoyment of property and natural resources between the developed world and the Third World. Recently, the secretary-general of the United Nations Kofi Annan has expressed his view that the rich countries enjoy 86 percent of the natural resources of the world, while 80 percent of the world population who reside in the Third World or in developing countries enjoy only the rest 14 percent of the natural resources of the world. This situation should be changed. It should be considered that human rights are not for the rich or western people only.

Some states have become party to human rights treaties for purely cosmetic reasons. But they have rendered themselves doubly delinquent not only by continuing to violate human rights, but also by their failure to comply with the minimum supervisory mechanisms of such instruments.

It is evident that in a poor country only the government with limited recourses and other limitations cannot provide the basic needs to the people. So, NGOs' role in this context should be evaluated. NGOs can undertake legal aid programme in the field of human rights to ensure equality. Many NGOs related to human rights activities can contribute significantly in creating human rights norms by taking research and publication programmes.

Implementation of human rights requires integrated efforts of all. The proper implementation of human rights also needs the full cooperation of the government and the governmental agencies. The government is required to be more responsive to the public opinion re-

Complaints

Weakness of inter-state complaint system stands as another barrier in the way of implementation of human rights. The existing system for dealing with inter-state complaints is extremely weak. In various human rights instruments, inter-state complaint system is applicable only on those states who have recognised this system. Thus provision of prior ratification is one kind of problem in dealing with inter-state complaints, which eventually creates problem to implement human rights.

Problems of Individual Petition System

Individuals can submit petition to the respective human rights organs in various human rights instruments in the event of violation of human rights. But this system is plagued by various weaknesses. About 90 per cent of the world population cannot invoke them because the states concerned have not accepted the competence of the relevant organs in this regard. The 1503 Procedure of the ECOSOC rarely produces tangible results. The confidentiality aspect of the 1503 Procedure may well be considered as one of its greatest effects. It is carried to such an extreme that the petitioner is not even kept informed of the status of the communication beyond the initial acknowledgement of its receipt.

Defects of Reporting System

Almost all human rights instruments provide periodic reporting system. But this reporting system is plagued by some problems. Reporting procedures are generally hamstrung by late submission of reports by states, poor quality of these reports, delay in the consideration of these reports and lethargic follow-up action. Even some state parties do not submit or fail to submit their reports within prescribed time. Certainly these are creating problems in human rights movement.

Conflict of Jurisdiction

Withering State System

Withering state system is also liable to create problems to implement human rights. States often fail to promote and protect human rights. It also frequently violates those rights. As a result, the state system has lost its credibility in a large number of countries. This is particularly true of many African, Asian, East European and Latin American countries. Parallel centres of power have come up in some of these countries. This development threatens the concept of human rights.

Activities of Non-State Entities

Non-state entities create problems to implement human rights too. Terrorist organisations, fundamentalist groups and ethnic groups often violate human rights. Such non-state entities are creating problems in human rights movement throughout the world. In recent past in Burundi, Cambodia, Rwanda, Bosnia-Herzegovina and East Timor human rights were violated by the non-state entities.

Time-Consuming Factor

One criticism which can be levelled at the individual application procedures, however, is the time which an applicant must wait in order to secure redress. Under the ICCPR First Optional Protocol and the ECHR, it is not uncommon for the respective institutions under those instruments to take up to five years to reach a decision. This is hardly speedy, non-effective and runs counter to notions of due process which the human rights instruments that they administer demand of the states which are parties.

Want of Legal Literacy and Awareness about Human Rights

Want of legal literacy and awareness about human rights and obligations are some of the main problems for the implementation of human rights in many states like Bangladesh, India, Pakistan etc. Moreover, environmental

guarding laws in some countries which are contrary to the concept of human rights.

Monitoring human rights violations on the ground in order to provide accurate information to the international community and to contribute to bringing serious situations to an end is another area in which activities of the human rights committees can be grown. It will help, in the way of implementation of human rights.

International cooperation for human rights should be strengthened. The civil society can also take important role in protecting human rights through contacts with non-governmental organisations, the academic community, the press and the public. Cooperation with all United Nations human rights mechanisms, inclusion of United Nations standards in national law and the establishment of national institutions to protect human rights are essential.

The use of nuclear weapon is a curse to humanity. Right to life can't be ensured if the use or proliferation of nuclear weapon cannot be banned. The proliferation of nuclear weapon is polluting the environment. In this situation human beings are under threat and danger. So, Comprehensive Nuclear Test Ban Treaty (CTBT) should be signed and observed by all the states.

Minorities are vulnerable group, often needing international action to protect their rights. Various measures and actions should be taken to combat racism and racial discrimination on the national, regional and international level. High priority is to be given to providing assistance and relief to victims of racism and all forms of racial discrimination.

Violation of individual rights remains an issue of concern. It is to be kept in mind that the whole society will suffer if individual rights are not protected. So, protection of individual rights will help in the way of implementation of human rights.