

UNHRC: deaf, dumb or dead?

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THERE is increasing dissatisfaction worldwide, against the performance of the United Nations Commission for Human Rights, which has begun to be viewed as a "white elephant", costly to maintain but paltry in return.

Probably the sharpest ever indictment has been delivered by the London *Economist* of February 4, 1995, which while deploring its silence on Indian atrocities in Kashmir, dubs it as "Abuse of human rights commission", and adds bitterly "Because the UN's Commission on Human Rights has failed to condemn India's brutality in Kashmir, it has, by default, sanctioned it." And it supplements this direct accusation of complicity against UNHRC with the searing comment: "The Commission is thus giving succour to governments that practise butchery and torture, which is exactly the opposite of what its creators intended."

The 53-nation Geneva-based Commission was created by the UN General Assembly to secure implementation of the international Charter of Human Rights and was furnished generous funding and elaborate machinery to investigate charges of human rights violations — and not wait for the adoption of a resolution by any country. To that end, UNHRC has been provided Special Rapporteurs for "Torture" "Arbitrary Executions" and "Disappearances." Unfortunately, however, UNHRC facilities have so far been deployed only to take notice of cases the big powers are interested in. Now with the appointment of a UN Commissioner for Human Rights, there is even less excuse for the UN not to initiate investigation on its own.

In fact, there is an inherent contradiction between the big powers' professed commitment to curbing human rights violations and their willingness to concede a veto to those accused of perpetrating it. The anomaly is pinpointed by the London weekly in these words: "The UN's Special Rapporteur on Kashmir has produced some carefully worded documents about the 'allegations' expressing 'serious concerns' and asking for an invitation to investigate them. None has been forthcoming. A resolution from the Commission criticising Indian behaviour in Kashmir, which would probably sting the government more sharply than anything else, has not been forthcoming either."

organisations and confronting the perpetrators of atrocities with all the evidence and urging them to redress the wrongs, failing which the UNHRC should issue a stinging censure.

If the foreign office of a solitary country, the USA's Department of State has the right to deliver an annual verdict on the human rights record of every nation, surely an organ of the world body, the United Nations Commission for Human Rights has far greater entitlement to issue an authentic assessment of human rights violations in the UN member-states.

The International Charter of Human Rights authorises such action, making it clear that identifying human rights violations and seeking their redress does not amount to interference in the internal affairs of independent states; and this is established by the long succession of resolutions passed by the UN General Assembly not only censuring apartheid in South Africa but also imposing economic sanctions against the Union Government for its violation of human rights. And India was always a co-sponsor. India cannot now invoke the plea of "domestic jurisdiction" in case of any UNHRC action against her, especially when Kashmir being "disputed territory", according to UN verdict, does not fall within India's domestic jurisdiction.

The world's two most important human rights organisations, both based in the West, the Amnesty International and Human Rights Watch / Asia, have released their latest reports to coincide with the 51st session of the UN Human Rights Commission in Geneva in the hope of the Commission would take due cognizance of them. Both are agreed that "the situation in Kashmir has reached alarming proportions," both highlight the dramatic increase in the slaughter of "civilians" of "exceptional brutality" of torture and deaths in custody, of "mutilated bodies" dumped on streets, of the mounting tally of "extra-judicial" killings and "disappearances" and of gang-rapes and of burning down of entire Kashmiri localities; and finally of Draconian laws that tell rampaging Indian soldiers in advance that they have nothing to fear.

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The flaw in the entire approach lies in begging for an "invitation", which understandably cannot be readily available; voluntary exposing of cupboard (with skeletons) to prying eyes is contrary to human nature; and the only strong enough incentive can be the fear that stubborn refusal to cooperate could raise a strong presumption of guilt. No accused would appear in court to answer charges unless he was convinced that his refusal to cooperate would result in an ex-parte decree. The same principle should apply to countries that seem reluctant to let in international investigators.

If the charges of wrong-doing came only from Pakistan, the world's reluctance to accept them as the gospel truth would be understandable; but coming as they do from authentic human rights organisations of world repute — like London-based Amnesty International, New York-based Human Rights Watch/Asia and Boston-based Physicians for Human Rights (in addition to human rights activists within India and Indian-occupied Kashmir) — the veracity of documentary evidence cannot be casually challenged. If India wants to question the truth of the eye-witness accounts, it has the option of inviting in a third party, namely a UNHRC team, to visit the Valley, see things for itself and formulate its own conclusions. But India cannot have it both ways — question the reports of international human rights organisations and at the same time refuse permission to a third party (UNHRC) to double check on the facts.

The course open to the Commission is clear enough: it should consolidate the Reports of Amnesty International and Asia Watch etc., into some sort of a charge-sheet and invite India to respond to it — either accept it or let UNHRC Rapporteurs visit Kashmir and determine for themselves where the truth lies. If India fails to allow a probe mission, the UNHRC will have every right to presume that the charges as proffered are correct and proceed accordingly — censuring India for gross human rights violations.

It should not be necessary for any complainant country to sponsor a resolution of its own; that is the professional-cum-moral obligation of the UNHRC Chief Executive, whoever he be. And it is the only way to guard against UNHRC becoming a political battleground for feuding states. For political feuding, the UN General Assembly is a forum large enough; UNHRC should behave and operate as a professional organisation — in fact as a sort of seismographic centre, perpetually on the look-out for tremors, keeping an eternal vigil for signs of human rights violations, investigating them quickly and quietly on its own or double-checking on the evidence gathered by other authentic human rights

of Amnesty International and Asia Watch and let the western conscience or what is left of it after its aid and trade deals take care of the rest.

The Asia Watch

"The increase in deaths in custody and other abuses is not unrelated to the signals sent by India's one-time critics, notably the United States, that human rights would no longer figure prominently in bilateral discussions. If there is to be any improvement in the protection of human rights in Kashmir, international pressure is vital. The countries who aid and trade with India have a particular responsibility to ensure that India's potential as a market does not obscure its human rights."

In its summation, Amnesty International while regretting the extreme politicisation of the debate on Kashmir, says it believes that the Commission has a crucial responsibility to address the seriousness of the human rights situation in Kashmir. The UNHRC should urge the Government of India to take effective steps to halt and prevent further human rights violations, invite the Working Group on "Enforced or Involuntary Disappearances" and the Special Rapporteurs on "Extra-judicial, Summary, or Arbitrary Executions" and "Torture" to visit India and act swiftly on their recommendations and allow free access to the area to international human rights and humanitarian organisations.

This means that all that a Pakistani resolution could possibly say has already been said by the West's own trusted human rights organisations; and consequently, nothing more can be gained from our moving a resolution of our own. We might be well advised this time to leave the UNHRC alone to take cognizance of the reports of Amnesty International and Asia Watch and let the western conscience or what is left of it after its aid and trade deals take care of the rest. In the event of the Geneva Human Rights Commission failing to carry out its assigned task, we must move in another resolution that either the UNHRC be converted into an active professional agency for direct investigation into human rights violations, or be wound up. There is no point in retaining it as another politicised debating chamber when that job is being already done quite competently by the six committees attached to the UN General Assembly in New York.