

# Human rights in Pakistan

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police atrocities but have gone on providing compensation to the victims of the atrocities.

The Supreme Court and High Courts of Pakistan came down heavily on state-sponsored killings and termed the death in police custody as the worst and most heinous crime. The courts have stressed time and again that police torture is disastrous to human rights. When the guardians of law gore human rights to death, the court has squarely placed the responsibility to remedy the situation on the state. The state at the highest administrative and political level must organise special strategies to prevent and punish brutality by police methodology. It may be noted that the significance of the superior courts judgments is far wider than the punishment meted out to a few people. The strategy adopted by the courts quite clearly is to show to the police force and the executive as well that the courts will be stepping in more frequently to check these aberrations.

Life means more than mere animal existence. An important aspect of the right to life is that no person can live without the means of living. If this right is not treated as a part of the constitutional right to life, the easiest way of depriving a person of the right to life would be to deprive him right of livelihood. Such deprivation would not only denude life of its effective contents and meaningfulness but it makes one's life impossible to live. There is thus a close nexus between the life and means of livelihood which alone can make life liveable with dignity. Unluckily, in developing countries though this very right is accepted in all constitutional and legal documents but no concrete policies are formulated to overcome this awful menace. The Supreme Court has stressed that each incident of sexual harassment results in the violation of the fundamental rights to life and personal liberty including the right to work in a profession of one's choice. The right to life means the right to live with dignity and an undignified life at one's work place means deprivation of one's precious right to life, freedom to choose profession. The Supreme Court emphasising the importance of childhood and quoting from Wordsworth has stressed that "A child is the father of man" to enable him fathering a valiant and vibrant man. The child must be groomed well in formative years of his life. He must receive education, acquire knowledge of men and material and blossom in such an atmosphere that on reaching the age, he is a man with a mission as far as the society is concerned. The court expressed the hope that sufficient measures shall be taken by the government so that the promises made to our children by our constitution about more than quarter a century ago are fulfilled and let the child of 21st century find himself into that heaven of freedom which our leaders had visualised and promised at the time of creation of Pakistan. Despite these untiring efforts and achievements on human rights front, the Supreme Court's pronouncements at best have had only a marginal impact on the overall human rights situation in the country. Law-enforcing agencies are increasingly resorting to human rights violations and as a force have been absolutely casual about torture and the human rights are continued to be violated with impunity. Many cases taken up with so much of fanfare and publicity which were directly or indirectly related with human rights have been forgotten by the judiciary.

The courts have also been unable to cope with the challenges of civil rights both social and economic. Innumerable examples can be quoted wherein the Supreme Court has woefully fallen short of guaranteeing civil rights, be they related to the social, economic or political reforms, police torture or even military coup's legality under the principles of law of necessity. By taking recourse to the grounds of security of the state, the executive is often able to usurp the very rights

without any distinction as to race, caste, creed, sex, religion, place of birth etc. In the 1973 constitution, special heed was paid to provide the people of Pakistan with freedom, equality and fraternity and all fundamental rights recognised in the modern times. Direct access to the High Courts and Supreme Court of Pakistan further simplified and enormous powers were provided to the superior courts. To safeguard basic human rights, the framers of the constitution provided two categories of fundamental rights, which signifies their clear notions about human rights. There are two categories of fundamental rights, first category consist of:

Article 9 (pertaining to security of person)

Article 10 (relating to safeguards as to arrest and detention of person)

Article 11 (slavery, forced labour have been prohibited under it)

Article 12 (relating to protection against retrospective punishment)

Article 13 (pertaining to protection against double punishment and self-incrimination)

Article 14 (relating to inviolability of dignity of man)

Article 21 (pertaining to safeguards against taxation for purposes of any particular religion)

Article 22 (relating to safeguards as to educational institutions in respect of religion)

Article 24 (pertaining to protection of property rights)

The above Articles do not make any distinction between a citizen and a non-citizen as they speak of a person. Whereas under second category the following Articles fall:

Article 15 (relating to freedom of movement etc)

Article 16 (pertaining to freedom of assembly)

Article 17 (relating to freedom of Association)

Article 18 (pertaining to freedom of trade, business or profession)

Article 19 (pertaining to freedom of speech etc)

Article 20 (pertaining to freedom to profess religion and to manage religious institutions)

Article 23 (relating to provision as to property)

Article 25 (pertaining to equality of citizens).

The above Articles can be pressed into service by a citizen only. The superior courts of Pakistan opened new vistas of human rights movement by liberally interpreting and expanding the meaning of fundamental human rights. Right to life and personal liberty has been interpreted so liberally by our judiciary that now it covers in its ambit a variety of rights that go to constitute personal liberty of man. Life means human dignity that gives substance to human rights and includes protection of health and strength of people of all groups to develop in a healthy manner and in conditions of dignity, educational facilities and human conditions of work. These are the minimum requirements which must exist in order to enable a person to live with dignity. The right to personal liberty is one of the most, if not, the most important of human rights and liberty of an individual is threatened the most when a person is arrested for any reason, keeping in view such situation. Right to free legal aid is provided in our constitution. When an accused is sentenced by a court and entitled to appeal against the verdict, he can claim legal aid if he is not able to afford the counsel. It is not a charity on the part of the state but a constitutional obligation and same is admitted and carried in letter and spirit. It is pertinent to mention here that human rights are ignored altogether in the name of state and for the maintenance of law and order particularly by the law-enforcing agencies. The superior courts of Pakistan, in a plethora of judgments, not only condemned

The concept of human rights in modern times could be traced to natural law philosophers, who propounded the theories to protect individual against the excesses of state oppression and terrorism. The present-day human rights as enshrined in the UN Charter and other ancillary documents is not a modern innovation but in fact the documents derived their enshrined principles from great historic movements.

The concept of human rights represents an attempt to protect the individual from prevailing tyranny, oppression and injustices. These rights are independent, inalienable, inviolable and have universal characteristics. Their circumference is still undefined but those who are fighting for these rights are in fact fighting for a balanced development of human beings. In modern times French revolution is considered as a watershed in the human history which floated the idea of freedom, equality and fraternity. Since French revolution we can easily trace the clear imprints of human rights. In 18th century, industrial revolution changed the course of human history. The exploitative behaviour of capitalists compelled the intellectuals to evolve new theories for the betterment of human beings particularly labour class. The philosophers of that time presented liberal ideas and wrote against bigotry and radical forces of that time and propounded the theories based on the welfare of the general masses. It stirred the minds of ordinary people. In 19th century, there was a struggle for constitution, democracy, nationalism and liberalism. That was the time when people in the western world were striving to get rid of oppressive social order. Montesque propounded a theory of separation of power in his famous work and this theory in the workable form was presented in the American constitution in 1779.

The American constitution greatly influenced the people who were fighting against their colonial masters but slave nations were clear in their views that for the dignity of mankind, human rights should not only be recognised but must be accepted. Human rights in the dignity and worth of human beings, in the equal rights of man and woman, proposing to encourage respect for human rights and fundamental freedoms for all without distinctions as to race, caste, creed, sex, language, religion or belief, represents a significant advancement so far as faith in and respect for human rights is concerned. Universal declaration of human rights declaring that everyone has right to life, liberty and security, freedom from slavery or servitude, cruel or inhuman or degrading treatment and arbitrary arrest and ensuring equality before laws and equal protection of laws represents the most concrete and universal texture of human rights.

It may be noted that the concept of human rights in a multiethnic and diversified society like Pakistan has a special significance, because the instances and occasions for violation and suppression of human rights are numerous. In a society where the law has been conceived to be an instrument for bringing about the social change, the people naturally develop the habit of looking towards the state for every social, political or ethnic conflict. This leads to the state interference at every step of human relations and it also provides a fertile ground of experimentation in evolving suitable means for combating human rights violations and developments in the field of subjects relating to human rights. Being a newly-born state on the world map, Pakistan has responded well to the human rights cause and championed the same. The Objective Resolution which was passed in 1949 was a hallmark and after its insertion as Article 2-A, it has become a substantive part of the 1973 constitution of Pakistan.

Although we framed our first constitution in 1956, but dignity of human rights was well recognised in 1949 in Objective Resolution. The very preamble of our all constitutions ensured egalitarian society, social, economic and political justice, liberty of thought, expression, belief, faith and worship, equality of status and opportunity to all

of existence of the people. Similarly there is the view that the courts often act in instances which are convenient and comfortable but would rarely stick their necks out in cases involving the powerful. How the constitutional authorities including the Supreme Court can be said to have fulfilled their constitutional obligations? We have just entered in the new millennium and there is a heightened sense of individual and group rights, these problems in the way of achieving common standards of human rights have assumed added significance. The solution naturally lies in the greater public awareness, and a vigilant people against entrenchment of autocratic and authoritarian values. It is high time that west particularly US, which was speaking at high pitch about human rights after September 11, has all of a sudden changed its tune.

The great game which Americans are playing in Afghanistan is the worst sort of state terrorism and tarnished all hopes for smooth development of human right and its impact will be global. It is pertinent to mention here that with America all other champion nations of human rights are also silent. When President Bush finally signed the ridiculously named law PATRIOT (Provide Appropriate Tools Required To Intercept and Obstruct Terrorism) Act, 2001, he surrendered the most vital component of the 'American way of life.' The whole world looked upon the new law being enacted hurriedly as draconian, even by the crude standards of some of the dictatorial regimes the US is fond of condemning.

The erstwhile KGB, RAW and Mossad would be overjoyed that what US always condemned, bestowed upon the state machinery in the US. People in large part of the world still live in chains. For them America was serving as the beacon of civil liberties and individual freedom. The present measures adopted in America will certainly prove a death blow to cause of human rights. The developing nations will certainly be in trouble and the graph of human right will again go steeply.

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