

**T**he implementation of International Law for the protection of Human Rights is a promise and not an achievement by any stretch of imagination. Although the European Commission of Human Rights and European court of Human Rights are operating in Europe, but these two organs are still suffering from jurisdictional and procedural restrictions. There is another Inter American Commission of Human Rights and the same was established in August 1959 by the Organisation of American States. In spite of the limited progress to achieve the target still any effective international machinery to protect individual rights is not available and the Human Rights are not the subject of protection by any International Convention. There are universal norms of International Law binding by all states to protect the Human Rights.

There are some conventions attempting at protecting Human Rights. The United Nations Charter imposes obligation on member States to observe Human Rights, but the said pledges and rights are only recommendatory and for the encouragement of Human Rights and there are no binding obligation on member states to protect and respect Human Rights. 1948 wherein various Human Rights have been defined which should be respected, and machinery for their implementation has not been proposed. The said declaration of Human Rights is at the most a manifesto, but due to the absence of the machinery for the enforcement of these rights the same are generally ignored.

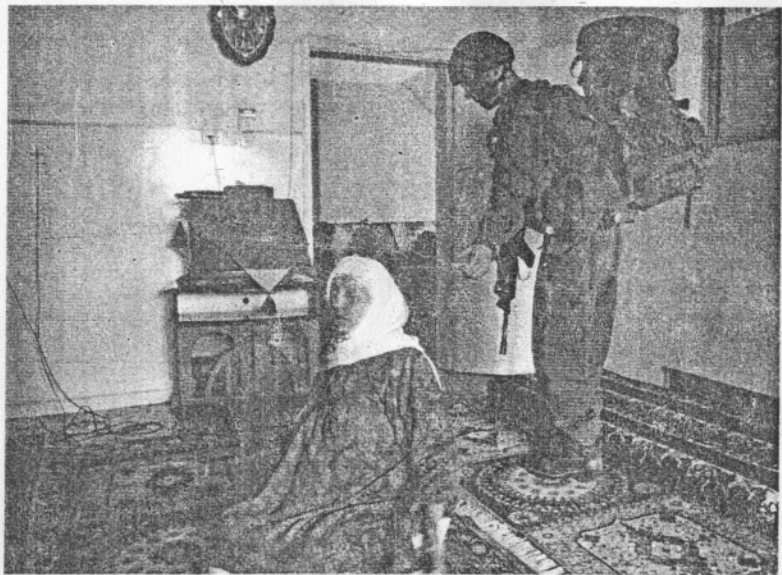
The European Convention for the Protection of Human Rights and fundamental freedom is regional Charter having been signed by the members on 4th November 1950 and this Charter is beyond the Universal Declaration of Human Rights. The Commission has dealt with thousands of applications but due to the technical hurdles the Commission cannot minimise the Human Rights violation.

The covenant on economic, social and cultural rights and the covenant on Social Political Rights were adopted by the United Nations General Assembly on 16th December 1966 and the said covenant came into force in 1976. In these covenants the

# International law and HR violations

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**SYED MUHAMMAD KALIM AHMAD KHURSHID** says that though the human rights are part of the legal texts and the international accords, but practically being violated by the state machinery everywhere throughout the world



*A Palestinian woman prays while an Israeli soldier searches her residence in the Tulkarem refugee camp on the West Bank*

Rights of Self-determination and Prohibition of discrimination have been recognised. But discrimination is evident, Right of Self-determination has been exercised by the people of East Timor in Indonesia but people of Kashmir are waiting for the said rights for the last more than 54 years.

The restriction on the prostitution, exploitation for prostitution and trafficking of persons was prohibited in 1950 and all the exploitation for the purpose of prostitution were prohibited. Similarly, the slavery was abolished but what is going on in the red light areas throughout the world.

The Children from Pakistan are being purchased for wild Camel Race in the UAE and Human Rights activist are helpless. It must be appreciated that forced labour culture has been condemned by the Supreme Court of Pakistan.

The 15 general principles of freedom and non-discrimination in the matter of political rights adopted by the UN commission on prevention of discrimination and protection of minorities in January 1962. Similarly, 20 Human Rights were approved in the American Convention for Human Rights on November 22, 1969 and the

same were enforced in 1978. Consequently, the Inter American Court of Human Rights was established and the same exercises advisory as well as original jurisdiction and can award damages and also can make declaratory decrees.

Helsinki Declaration of August 1, 1975 adopted by other 30 European states, Canada and the US whereby Human Rights and fundamental freedom to respect the rights of minority and equality before law was affirmed.

The minorities can retain and maintain their own identity as envisage by Article 27 of the covenant on Civil and Political Rights.

According to Article 1 of the Declaration of Human Rights of December 10, 1948, human beings are born free and equal in dignity and rights while the people of under developed countries are born in chains and they are not free, they are victims of different types of economic exploitation, nuclear blackmailing and Information Technology exploitation. The World Trade Organisation is another organ violating the Human Rights, because the same is harassing

and exploiting the under developed Countries.

Article 2 of the said declaration envisages that there will be no difference on the basis of race, colour, sex, religion, political opinion, national or social origin or other status for the enjoyment of Human Rights but the minorities in India especially Muslims and Christian are being discriminated on the ground of religion while in Zimbabwe discrimination by the ruling black Janta is being condemned on the International forum but the Human Rights violation in India is ignored.

So far as Article 3 speaks the right of life and liberty but the life and liberty of the Palestinians is at the mercy of Israel and they are being victimised and deprived of their fundamental rights. Same is happening in Kashmir. Now it is High Time that state terrorism should be resisted. At Godhra mob has killed more than one thousand Muslims. One MLA along with 19 members of his family were put on fire. The Mob has burnt hundred of families in their houses and has raped wives and, daughters in the presence of parents and husbands. But there is silence about these atrocities and the human right activists have not reacted on these violations. Zimbabwean victims are less than the Muslim victims in India but in the Common Wealth Summit. Zimbabwe has been condemned but discriminatory attitude of silence has been extended to India.

Article 4 prohibits slavery but the people of under developed countries are slaves of the World Bank and the IMF and they are being deprived of the right of food and shelter in the name of golden shake hand and the people are being deprived of their assets in the name of Privatisation thus resulting in financial slavery.

Article 5 envisage that no one shall be subjected to torture or cruel or inhuman treatment and punishment what is going on Guantanamo Bay and the treatment of Americans with al-Qaeda and the Taliban prisoners is immoral and merciless. The Geneva Convention is being violated and the accused persons are being discriminated on the basis of race, nationality and religion. 'The use of unnecessary restraint and humiliation of the prisoners are classic techniques implied by the said authorities to

humiliate them. A columnist of a daily has said that "if animals were treated in this way in the West, it would have brought angry protest from the society for the prevention of the cruelty to the animals". Marry Robinson has declared that the Taliban and al-Qaeda are POWs and fall within ambit of the Geneva Convention and the US being a party in this war cannot determine status of the prisoners but everybody is 'helpless, no organ is effective to enforce the Human Rights. The American Bar Association should be appreciated because they have condemned the attitude of the detaining authorities.

On the other hand the man is slave in his own country. In many countries the people are being deprived of their Fundamental Rights by the military.

Article 7 says that all persons are equal before the law but in Guantanamo bay discriminatory judicial system is being established to punish the prisoners of war and they are not being treated equal before the law and equal protection of law is not available to them. Even military tribunals are being created and normal judicial system has been ignored, Excessive restrictions, security measures proposed by the European Union has been condemned by the "Human Rights Watch".

Article 9 prohibits arbitrary arrest, detention or exile while it should not be lost sight of this fact that Nawaz Sharif along with his family has been deported to Saudi Arabia.

Article 10 enumerates a fair trial but what's going on in Guantanamo when the champions of the Human Rights are not giving an independent and fair trial to an accused.

Every person has right of property, privacy, honour and reputation as incorporated in Article 12, but the passports are being cancelled, Exit Control Lists are being prepared for victimisation of the opponents, character, assassination of the Opponents, through the Press and Electronic Media is clear violation of the above said fundamental rights.

It is envisaged by Article 16 that right of men and women to marry with their free consent but in spite of the legal marriages thousands of false cases have been registered and the fundamental rights guaranteed by the aforesaid declaration are being violated

by the police in this part of the world and the courts are not extending protection of fundamental rights to the married couples.

Article 17 bestows the right to own property, but whether workers and peasants can acquire property in the capitalist culture of exploitation, right of property is far away from them. This right is only for the industrialists, landlords and big businessmen.

According to "Human Rights Watch" the activists of the US and European countries will ensure that other countries should not frustrate the Human Rights, on the pretext of terrorists threat and they will resist their tyrannical intentions. Even Russia, India and Israel are involved in state terrorism to justify their abusive military campaign and crack down in Chechnya, Palestine and Kashmir are the result of gross Human Rights violation. India has imposed Prevention of Terrorism Ordinance (POTO) and the police torture is being tried to be legalised. One must not forget that the civilisation cannot be defended by reckless state terrorism. One must maintain a proper balance between the need of the security and the Human Rights. We must not forget that Human beings cannot be treated like chattels. Any law should not be allowed to be enforced which contravenes the Human Rights and not acceptable in the normal times. It is pity that any effective machinery has not been provided for the encroachment of the Human Rights and the machinery provided to some extent in Europe and other countries is still ineffective. Till today the human rights are part of the books, but practically being violated by the state machinery everywhere. Unless and until the definition of terrorist and freedom fighter is not settled the Human Rights will be violated by the State functionaries. The radical measures for the enforcement of the Human Rights is the need of the day and the same can only be achieved if the intellectual come forward to protect the above mentioned Human Rights. The Human Rights Declaration and Convention are just manifesto, statement of ideas and path finding instruments but due to absence of the machinery to enforce them resulting in double standards and the same are ineffective. ■