

The Human Rights Paradigm

model

KHURRAM KHURSHID compares the state of human rights in India and Pakistan as set forth in the US State Department's recently released annual report

Nalini
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The US State Department has released its Report on Human Rights Practices for 1998. The Report presents an evaluation of the human rights situation in countries around the world. Assimilated from news reports, and from such diverse sources as independent human rights organisations, NGOs and other public interest groups, the Report pieces together human rights trends and practices in the subject countries. The Report applies the Western human rights paradigm to assess human rights conditions in individual countries. While this method provides defined yardsticks against which a country's performance can be tested, it risks overlooking peculiar characteristics of individual countries, related to religion, culture, etc, providing simplistic, straitjacket conclusions.

The Human Rights Reports on Pakistan and India present substantial material for assessing and contrasting the state of

human rights in the two countries. Covering the broad spectrum of politics, law and society, the Reports help shape the human rights profile of the sub-continent. The two countries present interesting case studies, having many parallels in their political and legal structures, cultural and social ethos, etc. Yet within this broad pattern of similarities, the two countries have traversed distinct evolution courses in specific areas of human rights.

It is evident that there have been widespread violations of the inalienable right to life and liberty of citizens in both countries. This violation takes the form of extrajudicial and political killings, illegal detentions, torture and other inhuman treatment, arbitrary arrests, etc. This is a glaring violation, and the frequent incidents in both countries indicates that human rights in both countries are still at a rudimentary stage of evolution. These violations are rare in the developed legal systems of the

world, and they have moved into the finer areas of human rights, like freedoms of speech and expression, affirmative action, and now more recently 'the right to die', or the right of a terminally ill patient to exercise the option of physician-assisted suicide. If governments cannot guarantee the most fundamental of the fundamental rights, the right to life, then the individual cannot be said to enjoy his basic rights as a citizen.

However, despite such an indictment, it remains a fact that violations of the right to life by the state is not the norm but the exception. Yet it is these exceptions that assume spectacular proportions in this age of awareness and information. The statistics clearly point to the large scale violations by Indian security forces in Kashmir as the most conspicuous usurpation of fundamental rights in the sub-continent. The Karachi violations do not match the scale, magnitude and gruesomeness of the



Indian atrocities in Kashmir.

In the finer areas of human rights, like freedom of speech and expression, and academic freedom, India appears to have fared a trifle better than Pakistan. The rights of religious minorities have been violated in both countries, but the scale has been ascendant in India in the year under review. Concerning the rights of women and children, it is significant that prostitution, child prostitution and the spread of Aids are alarmingly high in India but find no mention with respect to Pakistan. In virtually all other areas, human rights conditions have more or less identical contours in both countries.

The Reports take a broad scope of politics, law and society in the two countries. The Reports confirm that the two countries have attempted to evolve institutional frameworks for safeguarding human rights. However, the implementation mechanisms remain arbitrary and marginal, keeping the human rights conditions rudimentary and in some areas, embryonic. Nevertheless, the larger picture that emerges from the Reports endorses a pattern of increased awareness in the two governments, to improve and enhance human rights conditions.

While the reader can scan the excerpts of the two Reports to arrive at an independent judgement, it is evident from the available data that Indian human rights violations continue to be more pronounced and widespread. While in individual human rights areas, records of the two countries can be advanced to argue in favour of either, the gross human rights violations by Indian security forces in Kashmir have no parallel in Pakistan. It is manifest that Kashmir remains the great tarnishing smudge on India's human rights record.

On the threshold of the new millennium, the sub-continent's human rights landscape continues its struggle of evolution and development.