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General Approach On Human Rights Peoples Awakening Main Guarantee For Ensuring Human Rights

I.Concept

Conceptually, the human rights, in simple terms, be defined as a set of just claims to which every human being is entitled to as a member of the human community and which must not be taken away by any authority under any situation. These rights mainly comprise:

a) Safeguarding the fundamental human right of environmental (i.e., air, water. land, forest, bio-diversity, etc.) sustainability at all times and places; b) Right to equality in all walks of life—political, economic and cultural (including gender equality)—where equality denotes full equality in politics and culture and a just and fair equality in economics; c) Right to life and security; d) Right to be free from hunger, clothing, shelter and unemployment; e) Right to education, health-care and social security; f) Right to personal liberty and freedom; g) Right against exploitation; h) Right to information; and i) Right to freedom of conscience and belief.

From the foregoing concept, it follows that human rights are a very important part of a given social system. Their quality reflects the nature of a given social system's rule of law, social justice and behaviour pattern.

II. Historical Perspective

Historically, the issue of human rights is as old as human species. But it has varied in different historical stages, each characterised by its given level of social development and given form of human rights. Thus, while the food-gathering clan community (ensuring equal rights to all its members) denied every right to a non-clan member and even put him to death, sometimes, in our times, even prisoners enjoy the right to life and security. Only a few centuries ago, the hands of a thief were amputated in order to teach him a lesson in physical torture, but now all types of physical torturing is legally prohibited with a view to transform all criminals into useful citizens.

The human rights process got a great stimulation from various democratic happenings in Europe after the 15th century, namely, the European Reformation (16th century), emergence of parliamentary system in Britain (17th-18th centuries), French and American anti-feudal revolutions (late 18th century), emergence of communist and socialist ideas in Europe (19th century), etc.

The modern historical phase of human rights began after the end of the 2nd world war, when the mass revolutions against the pre-war savagery and wartime horrors of Nazism, Fascism, Militarism and Totalitarianism demanded the creation of a world forum to ensure peace and humane relations. The result was the formation of UN in 1945. Three years later, the UN adopted the 1948-Universal Declaration of Human Rights, incIuding both the socio-political and socio-economic rights. In 1966, the UN approved two covenants on human rights—one concerning the norms of equity and social justice and the other relating to the civil and political rights. So far, the UN has endorsed nearly 25 covenants in relation to human rights. The UN declaration and many of the UN covenants have now been ratified by nearly all countries with only a few exceptions.

III. Present State Of Human Rights Process

With the termination of the cold war, the issue of human rights has become one of the principal concerns of the world community. And the human rights movement has gained a new momentum all over the world.

However, the actual situation of human rights at the state and the government levels in each country is not very satisfactory. Some countries (primarily the developed ones) lay stress only on civil and political rights, while some (mainly developing ones) emphasise the economic and cultural

rights alone. A number of countries are oblivious to both, caring neither for political nor economic rights.

At the mass level, the human rights movement is playing a positive role in the world. Trans-national human rights organisations—like the Amnesty International and the Human Rights Watch—are the major performers in this movement with the national level human rights organisations contributing their due share.

But, despite its positive performance, the human rights movement (both at the international and national levels) at present is also characterised by one-sidedness. It mainly attends to the matters concerning the corporate capitalist political and civil rights and totally ignores the humanitarian and environmental issues of air, water, economic equality and social justice.

The human rights organisations hardly question the sub-human inequalities existing in our human world. They hardly care that about 20 percent of the world population (i.e., 1.4 billion, according to World Bank) continues to be absolutely poor and about 50 percent subsists on the poverty line.

According to 1998-UNDP Human Development report, "global consumption at $24 trillion that year were 6 times the figure for 1975. But 3/5th of the 4.4 billion people in the developing countries were living in communities without basic sanitation. Almost one-third were without safe-drinking water, one-fourth lacked adequate housing, one-fifth lived beyond the reach of modern health services, one-fifth of the children did not get as far as grade five school." And the situation had worsened during the past seven years.

Contrary to the above miserable living conditions of the world's common people, "86 percent of expenditure for personal consumption", according to 1998-UNDP Report, "is made by just 15 percent of the world's people (belonging to developed countries). The world's 225 richest people had a combined wealth of over $1 trillion, which was also the total income of 47 percent of the poor, who numbered 2.5 billion. The wealth of 32 of the world's richest persons exceeded the GDP of South Asia (India, Pakistan, Bangladesh, Sri Lanka, Nepal, Bhutan and Maldives) plus Iran and Afghanistan. In 1956, average per capita income in the world's seven richest nations was 20 times that of the poorest seven. By 1995, it had soared to 39 times as much. In Africa, average per capita income was now only 7 percent of the level of developed countries. In Latin America, it had fallen from one-third that of industrialised countries in the late 1970 to one-fourth today." That state of affairs had further deteriorated now.

The report further revealed that "$11 billion worth of ice-cream was consumed in Europe, while the spending on pet foods in Europe and the USA was in the region or $17 billion, another $12 billion was spent on perfumes in the US and Europe, while Japan did spend $35 billion on business entertainment. The report further disclosed that just three of the world's 225 richest people had a combined GDP of the 48 least developed countries." AII these spendings had now further gone up.

Also, the human rights organisations do not, challenge the existing unequal global and national political structures, but work within their framework. For example, none of the human rights organisations has ever raised its voice against the veto-based unequal structure of the biggest organisation of the world, i.e., the UN, or the financial weightage-based voting pattern in the IMF and the World Bank. In fact, however, over 95 percent of the existing human rights organisations are working as NGO's (i.e., non governmental organisations), depending on corporate finance.

By concentrating only on political and civil rights, the human rights organisations obscure the actual problems faced by the various groups of people, especially the poor and the deprived. When a person has nothing to eat, live or work, how can he enjoy political and civil rights. In fact, the issue of raising political and civil rights alone is a corporate agenda.

Thus, the human rights movements cannot be an alternative to other democratic and socio-economic movements. They can only play supportive role to the democratic movements standing for changing the system.

IV. India's Human Rights Record

In India, the record of the human rights at the state and the government level has been quite dismal since independence. Despite having signed the UN Human Rights Declaration and many covenants, the Indian government has consistently followed a policy of human rights violations all through this period.

The continuous operation of detention laws in India since 1947 speaks volumes for the state of civil liberties in India. From 1947 to 1950, the British-enforced detention laws continued to throttle civil liberties in the country. In 1950, the Preventive Detention Act (PDA) was enacted. Under this draconian law, any citizen could be arrested by any ordinary police official on mere suspicion of committing a crime or detained to prevent that he or she might do something against the law. It was re-enacted seven times, each time the duration of the Act having been three years. The PDA was replaced by the Maintenance of Internal Security Act (MISA) which lasted from 1971 to 1977.

With the lifting of the emergency, India was mercifully free from any detention law for three years. Then, in 1980, the National Security Act (NSA) was imposed on the country which continued for some period. The NSA was much harsher than the previous detention laws, containing the provision which laid the onus on the accused to prove his innocence.

Beside, the NSA, two more cruel laws were enacted in the following year that is, (a) the terrorist affected areas (Special Courts) Act, 1984 and (b) the Terrorist and Disruptive Activities (Prevention) Act, 1985, known as TADA. The TADA (now replaced by POTA) was used to terrorise the opponents of the ruling party. The POTA has been just repealed in 2005.

The most ferocious of all laws, i.e., the Armed Forces (Special Powers) Act, 1958 (amended 1972) still continues for arrest or search and any soldier has the power to fire in order to kill.

The fact that such savage laws should have occupied a prominent place in the legal guide of Indian democracy for almost its entire life reflects the real quality of India's rule of law. It also shows the actual nature of Indian mainstream parties and politicians. Barring some notable exceptions, the judiciary's overall record leaves much to be desired, e.g., upholding of emergency, procrastination in dealing with the detention laws, declining to take strong action against the offenders in Bhopal tragedy as well as those big-wigs who abuse and misuse the law. The role of the investigating agencies, especially the police had been the most deplorable. Operating under the 1861-British enacted Police Law, it has been behaving as a law unto itself.

Today, the human rights scene in the India was highly distressing. For example, despite the constitutional guarantee of the Right to Life, millions of people die every year due to hunger and under-nourishment and millions pass away because of lack of timely medical-care. Despite the constitutional guarantee of the Right to Free Expression and Assembly, restrictions continue to be imposed on the exercise of this right under various pretexts. Despite the constitutional guarantee of the Right to Equal Ttreatment, the law enforcement agencies play a partisan role in favour of the rich as against the poor and in favour of the majority community as against the minorities, especially in the communal and the caste conflicts (e.g., 2002-Gujarat anti- muslim riots and 1984 anti-Sikh riots in Delhi). Despite the non-justifiable constitutional commitment to provide universal education within 10 years, millions of our children have no opportunity to go to school and nearly 45 percent of our people remain illiterate even 5.5 decades after independence.

Despite the constitutional guarantee against self-incrimination, thousands of undertrials are subjected to third degree methods and inhuman treatment, including blinding (Bhagalpur case), during interogations. Numerous cases of death in Police custody on account of physical torture occur every year. Prisoners inside jails are often beaten and tortured. Police encounters are only a euphemism for killing those considered to be dangerous by the state. Outrages against minorities and weaker sections are treated as routine affairs.

The level of our social criminaIisation can be seen from the fact that no VIP in India can today move without commando protection. The prevailing impression of the law-enforcing agencies on the people is not that of law-abiding bodies but of law-breaking forces. All this shows that the mere insertion of the human rights in the constitution and law is not enough guarantee of their actual realisation. Equally important is the question of their implementation.

Every year, the Amnesty International, Human Rights Watch and other human rights organisations in India and the world publish reports about the worsening state of human rights in India, with alarming human rights situation in Jammu-Kashmir and the North-Eastern States. Their, latest reports constitute a severe indictment of the Indian government concerning human rights abuses. This clearly indicates that, in addition to the positive work performed by the human rights organisations, much more needs to be done.

As regards the condition of human rights in other countries, the position does not seem to be any better. Perhaps, the US and Russia have the highest crime rate in the world. The countries dominated by the religious fundamentalism, ethnic strife, social and economic inequalities and authoritarian politics, parties and politicians are generally prone to human rights violations.

V. Reasons For Human Rights Violations

The following reasons, in the main, may be responsible for the bad condition of human rights:

a) In general, the corporate capitalist nation-state order, based on military-led state superpowerism both in internal management and external dealings, is the underlying cause today. Because, it empowers the parties, politicians and bureaucrats and provides only one-minute democracy to the people (at the voting time) and that too under the money and power-conditioned social environment. It obstructs the empowerment of the people in particular and the individual in general and distorts even the constitutionally guaranteed rights to the people or the individual in practice.

b) The other reason is the prevalence of unscrupulous political norms, oriented to money and muscle-power and non-issues (like Babri Masjid vs Ram Mandir; Swadeshi Prime Minister vs native one; secularism serving majority religion; etc.).

c) The third factor is the existence of undemocratic laws (new and old) which accord with the absolutely authoritarian nature of the nation-state and its semi-authoritarian governmental powers. In India these include all the detention laws and other laws, bye-Iaws and regulations arming the executive, the judiciary and particularly the law-enforcing agencies (police and the security forces) with extraordinary powers to search, interrogate and even detain without warrant; laws discriminating between the high and the low; laws prejudicial to women, minorities and other weaker sections; etc.

d) The fourth element is the rot in the law-interpreting and the law-enforcing institutions, particularly in the developing countries. This can be seen from the judicial process marked by delayed and high-cost justice, judiciary's persistent use of the power of contempt, and almost non-existent rate of top politicians and the big businessmen's conviction, increasing volume of the violations of the rule of law, all-round violence and corruption and also from the law-enforcing process distinguished by the culture of violence and bribery adhered to by the state machinery.

e) The fifth, but a highly important point, is the prevalence of corporate capitalist consciousness among the people. Corporate consciousness advocates that the progress in human society is based on the growth of capital (or money) and the capital or money is created by capitalist efficiency and creativity. Hence, all issues of human rights, equality, social justice, etc., are subservient to the ethics and traditions of capital.

VI. Issue For Serious Reflection

The situation of human rights in India, South Asia and the world as a whole calls for serious reflection. During the past over 5.5 decades, while crores of our people have subsisted under poverty, disease, suffering and humiliation, a tiny minority has rolled in 5-star luxury and opulence, of which even the old emperors would be envious. It is a state of peoples total deprivation—political, economic and cultural.

This unjust order, based on money, crime and violence needs to be replaced by a people and environment-oriented order.

Real Human Rights Can Only Be Insured
In A Justice-Based World

Nature-Human Centric Peoples Movement (NHCPM) holds that the human community at the present juncture is confronted with a highly dangerous environmental-human crisis. The challenge is so serious that, if it is not answered by a realistic agenda, the consequences can be very very harmful for the humanitarian cause. Such a grave situation, first of all, needs a complete unity among the different segments of mankind and the factor of unity demands the ending of all type of conflicts within the human community. The only way to achieve human unity and the ending of all type of conflicts within the human community lies in eliminating all sorts of existing injustices in the world.

NHCPM is of the view that a justice-based world is quite possible on the foundation of an all-inclusive social justice and this requires the restructuring of the existing unjust corporate system. To

restructure the existing unjust system on a just basis, the NHCPM puts fourth the 15 points for public information, association and action. It requests all those who accept the rationality of these points to put their signatures below.

Whenever and wherever elections become due in any region or the country as a whole, it appeals to the voters to make these 15 principles as a yardstick to ascertain the genuineness of their contesting candidates by requesting them to put their signatures in support of these just points Those who sign deserve the voters' support, while anyone shirking to do so is obviously devoid of a just and rational approach

1. Upholding the fundamental human task of environmental (i.e., air, water, land, forests, bio-diversity, etc.) sustainability at all times and places.

2. Human right of existence ensured through social security as a fundamental right with regard to clean air, pure drinking water, nutritious food, housing, clothing and free health facilities and education.

3. Human right of fair equality based on 1:5 income differences.

4. Peaceful resolution of all disputes in the world, particularly Jammu-Kashmir and Palestine, Sri Lanka, etc. In case of a just solution to Jammu-Kashmir problem, a joint Indo-Pak condominium be entrusted to handle its (Jammu-Kashmir's) defence and foreign affairs. In all other matters (except defence and foreign affair), Jammu-Kashmir should have independence, while each of its nine ethnic regions be given maximum possible autonomy. A similar type of just arrangement be worked out in case of Israel, Palestine and Jordan also.

5. Restructuring of the world order by ending the veto powers of the five permanent members of the UN security council and by giving the absolute power of deciding any issue to the UN general assembly on the basis of a simple majority vote.

6. Restructuring of WTO, WB and IMF on the basis of substituting their free market perspective by Nature-Human Centric perspective and their development strategy favouring money and money-owners by a Nature-Human Centric development strategy, comprising two top priorities, i.e., human and environmental, and five principles, i.e., environmental sustainability, equity, productivity people-led democracy and all-sided transparency.

7. Women's empowerment ensuring their 50 percent representation in all social institutions at all levels.

8. Co-operative farming, ensuring the livelihood security of all concerned.

9. Labour—both physical (or blue collar) and mental (or white collar)-empowerment, ensuring workers one-third elected representation in the management of all institutions, projects and factories.

10. Democratisation of all industrial and services sectors by ending their corporate and state monopoly control and managing them through ordinary shareholders (with two-third representation) and workers, (with one-third representation)>

11. Finance management: while the corporate sector upholds the monopoly corporate management and control and the state sector supports the monopoly bureaucratic management and control, the Nature-Human Centric development model stands for democratic management and control of public companies by elected joint committees, each comprising two-third elected members from ordinary shareholders and one-third elected workers representatives in place of permanent corporators. All promoters' shares purchased at cheaper rates (than the market rates) and owned by the corporate management be ended.

12. Political process be headed by the people and conducted through the Nature-Human Centric dedicated social workers (or their front). The elections be entirely free where everyone has the right to participate as a candidate and as a voter.

13. Ending of the state power monopoly of the corrupt and money and power hungry political parties by introducing the rule of the state funding of elections to each individual candidate (who is required to produce 1,000 signatures of his electors in assembly and 5,000 in loksabha elections), without any consideration to his party affiliation. Concerned voters right to recall any assembly or loksabha member if one-fifth of voters demand in writing a re-poll on the ground that the afore-mentioned member has lost the confidence of his electorate.

14. All development funds to be spent through elected peoples development committees (including the gram sabhas and not above that), abrogating the current rule of allotting Rs 2 crores to each MP and lakhs of rupees to each MLA for development spending in his constituency.

15. Jurisprudence to be based on the fundamental principle of safeguarding and protecting the interests of environmental and human resources. Any disregard of the foregoing principle to be dealt with the aim of reforming the offender, while prescribing punishment according to the severity of the offence. Punishment may include all humane forms that have existed in history except the sentence to death and human.