



Shri P. C. Sharma, born on 28 June, 1942, completed his Post Graduation in English literature and thereafter served as Lecturer in DAV College Ambala City and Nehru Memorial College, Manssa, Haryana. He was selected for the Indian Police Service which he joined in 1966 and served in various positions in Assam cadre to which he allotted. He served as Director General of Police, Sikkim in 1997. He was the second Indian to be elected as the Vice President of the Interpol. He occupied important positions in Central Bureau of Investigation and he was Director, C.B.I. from 2001 to 2003. After his superannuation, he was appointed as Member, National Human Rights Commission from 3rd March, 2004 which he served for five years. Thereafter, he was reappointed as Member, NHRC for a second time on 25th March, 2009 which ended on 28th June, 2012. During his two terms as Member, NHRC, Shri P.C. Sharma participated in a large number of international events including meetings of International Coordination Committee of National Human Rights Institutions at Geneva and contributed significantly. He also has been a prolific writer and has a number of published articles in major newspapers of the country on different subjects especially, human rights and governance issues.

Crowning Glory

National Human Rights Commission member and former CBI Director P.C. Sharma has several interesting anecdotes about his custom-built cane hat. Sharma, who hails from Ambala, says he took a fancy to the hat as an IPS probationer in the mid-sixties and has been wearing cane hats for almost four decades. He says the hat always generates interest during his visits abroad and has fetched him numerous compliments from ladies. On one occasion, tourists near Windsor Castle even offered him an astronomical amount in pounds for it. Although Sharma could have easily parted with the hat, he was not tempted since it has become his trademark. Sharma was, therefore, surprised when a television reporter needing a sound byte from Sharma, asked him to take off the hat. Sharma did oblige the reporter but he was clearly unhappy at being parted from his hat, even if was for a few minutes.

The Tribune, 10th July 2007



National Human Rights Commission
Faridkot House, Copernicus Marg
New Delhi-110 001, India



Selected Articles and Speeches Shri P. C. Sharma



Selected Articles and Speeches

Shri P.C. Sharma



National Human Rights Commission

Selected Articles & Speeches

Shri P. C. Sharma



**National Human Rights Commission
India**

Selected Articles and Speeches
Shri P. C. Sharma

© 2012, Author
1st Published : 10 December, 2012



National Human Rights Commission
Faridkot House, Copernicus Marg
New Delhi - 110001
Webiste : nhrc.nic.in

Design & Printed by :

Dolphin Printo-Graphics
4E/7, Pabla Building, Jhandewalan Extn.,
New Delhi
Ph. # 011-23593541, 23593542
Website : dolphinprintographics.com

Contents

Foreword	7
Author's Note	9
<i>Selected Articles</i>	
Human Rights Institutions in Conflict and Post-Conflict Situation	13
Bane of Fight Against Corruption	15
Gandhi, Apostle of Human Rights Sans Parallel	17
Corruption	21
Silicosis - The National Killer	25
Bhopal Gas Tragedy - Call for a Humane Approach	29
Corruption in Higher Judiciary- Ways and Means of Eradication	33
Poverty Alleviation and Human Rights	37
Public Health Care and Rights of the Patients	45
Terrorism and Human Rights	49
Shepherd of the Scavengers	55
<i>Life its own Moments</i>	
Assam : Down the Memory Lane	59
Air-Conditioned Views	63
An Amazing Indian	65
On The Spot with Indira	67
Birds of Different Feathers	71
Death of Innocence	73
Dhabhas in Academia	75
Face To Face with Lenin	77
Faux-pas and Guffaws	79

'G'-nib	81
Journey of a Road	83
Milk of Kindness - Mother of all Mothers	85
Musings in Space	87
Serpent Bar	89
Song of Old Age	91
Three Liberators: The Mahatma, Martin & Mandela	93
Valley of Happiness	97
Watching the Night Sky	99
Words that Rule	101
A Dose of Bacon	103
A Bit of Peshawar in Port Blair	105
A Fearless Man of Convictions	107
A Journey in Time and Space	109
A Prisoner and a Liberator	111
Lamas and Landslides	113
Love's Labour - A True Story	115
Age or Corruption	117
Made in Heaven	121
Prepare for Bigger Role	123
Action Here and Now in Needed	127
God Hunt	129
Lady with Beads	131
<i>Photographs</i>	
Memorable Moments	133
Days in Sikkim	136
Visits to Geneva	138
<i>Speeches</i>	
Human Rights : Accountability of Criminal Justice Functionaries	143

Advocacy Training Workshop for Child Rights Community Development Workers	147
Using Indicators to Promote and Monitor the Implementation of Human Rights	153
Building Human Rights Awareness in the Conference of NHRIs from South Asian Countries	155
Children as Victims of Crime - Socio-Psychological and Forensic Perspective	159
Credit Card Frauds - Investigative Modes and Efficient Solutions	163
Debate Competition Organized by Haryana Police on Human Rights - Dowry Victims	171
To Promote and Protect Human Rights	175
Eastern Regional Review Meeting on Mental Health	177
Emerging Techniques in Forensic Sciences for Contemporary Criminal Investigation	185
Review Meeting on Mental Health	189
Health Awareness Programme for The Elderly in Collaboration with Help-Age India	195
Valedictory Speech on Health Awareness Week	199
Human Rights and Related Environmental Issues	201
Human Rights and Rule of Law	205
Inspirational Leadership, Power Management & Good Governance	209
Human Rights Issues	215
Media Initiatives in Combating Human Trafficking	223
State Level Consultation on Patients Rights in Maharashtra	229
Police Civil Society Interface for Promotion of Human Rights	235
Ethical Issues in Public Administration	241
National Conference on Disability	247
Effects of Corruption on Good Governance and Human Rights	251
Prevention of Torture in India	253

NHRC's National Launching Function for Spreading Human Rights Awareness among Rural Youth	259
North Eastern Regional Public Hearing on Health	263
Seminar on Custodial Justice	271
Synergizing S&T with Judicial Processes	273
Rule of Law and Human Rights	279
Human Trafficking	285
Seminar on Human Rights Awareness	289
Terrorism and Human Rights	295
Role of NHRC in Protection of Civil Liberties	299
Consultation on Identifying Best Practices in Early Identification and Intervention for Children with Disabilities	303
Illegal Medical Practice and Health Care Facilities in the Tribal area	309
Rights of Persons with Disabilities in Commonwealth	313
Poverty and Human Rights - Opening Remarks of Chair	317
Role of NGOs in Support of NHRC in Better Promotion and Protection of Human Rights	321
Ethics and Corporate Governance	325
Silicosis	331
Police and Human Rights	335
Terrorism and the Indian Experience	339
Human Rights literacy among in Army	343
The Western Region Review Meeting on Mental Health	349
Detention in Juvenile Justice Homes	355
Seminar on Security and Liberty: Linking Counter-Terrorism and Human Right	359
अंतरराष्ट्रीय मंच पर आयोग की भाषाई अस्मिता	365
मानव अधिकारों के संरक्षण एवं संवर्धन में ग्राम पंचायतों की भूमिका	373
वरिष्ठ नागरिकों के मानवाधिकार : एक सामाजिक अनिवार्यता	377
सुशासन तथा मानवाधिकार	383



CHAIRPERSON
NHRC

Foreword

Shri P. C. Sharma had a rare distinction to serve as Member of National Human Rights Commission for two terms and he made significant contributions to the cause of human rights during this period.

A committed and dedicated votary of human rights, he undertook path-breaking initiatives for the cause of poor and deprived sections of society, so as to improve their lives. His commitment to the area of public health and especially, the tribal people affected by silicosis working in unorganized sectors was phenomenal.

This book will, therefore, be important as it conveys his ideas regarding human rights in the form of articles, impeccably researched and put in precise form, making an interesting reading. The issues covered in these articles are of vital importance and they also convey the effective role played by the National Human Rights Commission in addressing them.

The writings are extremely engaging and include interesting facts, observations and anecdotes, which keeps the interest of the readers alive. The author's characteristic wit and humour lovingly draws attention of readers towards a need for greater commitment for human rights issues.

I am certain that this book will not only be of immense help to those working in this area but will also appeal to a common man interested in developing further knowledge and comprehension about human rights.

10 December, 2012

(K. G. Balakrishnan)

Author's Note

I joined National Human Rights Commission in 2004. My entry raised some eyebrows as to how an ex-police officer could be appointed as Member. This, in part, was due to rigid views generally held by people about the functioning of police and, in part, a disinclination on the part of the opinion makers to take an objective view of the role of police, especially in the context of the changing circumstances. I must confess that I found this view very dogmatic, even prejudiced.

Having spent a lifetime in police I firmly believed that despite all their failings, the police are in the vanguard of protecting human rights, ensuring public safety, protecting human life and property. For their failure to discharge this noble duty, more policemen have suffered than any group of public servants. This, of course, is as it should be. This is neither an alibi nor a defence of the police for what they fail to do. Slowly, but surely, I plunged into the task of "protection of human rights".

There was some novelty about this assignment. Here the complainant quite often frustrated and harassed expected prompt relief without being assisted by any intermediaries like lawyers. The number of complaints that pour in besides the huge pendency made the task of the Commission quite daunting. Also, here is a Commission that addressed very serious issues affecting the rights of the people at large, like education, health, woman and child rights, conditions of scheduled casts and scheduled tribes, mental health, poverty alleviation programmes, bonded labour, silicosis etc. These matters have accorded a unique role to National human Rights Commission and given it a pride of place, not only in India, but also in the world outside. The more we delved into these issues, the more we realised that there was a lot more to do. The achievements of the Commission in a short span of 19 years leave no doubt that this Commission is capable of fulfilling its mandate.

Nineteenth century was a violent century which saw killing of innocent human beings at a scale unparalleled in the recorded history. Wars, exploitation, hunger, discrimination, pestilence and host of other deprivations denied the mankind human dignity that makes life worth living. Acute realisation of all these, paradoxically, by those very forces who were behind them ushered in an age of human rights. This new spirit of the twentieth century inspired the world community which launched worldwide efforts to promote the new creed of human rights. Their efforts are still on and multiplying. That National Human Rights Commission of India has also become a part of this global effort is a matter of historic significance and to be member of this institution was legitimately a matter of great pride.

This was my inspiration. It guided me throughout my two terms in the Commission. With its cultural, economic and social diversity, India is faced with a variety of human rights issues that do not lend themselves to any standard solutions. It was, therefore, a challenge as well as a mission to handle these

matters to the satisfaction of others as well as to your own. Though exacting, the task was enjoyable, too.

One of the greatest sources of satisfaction was redressal of individual grievances. There are cases when the Commission came to the rescue of innocent victims just on the basis of newspaper reports. A family of farmers from Punjab wrongly implicated and convicted for a murder charge was got rescued and compensated with one crore of rupees. Rescue of bonded labourers, particularly, children from factories, mines and quarries have now become part of movement launched by NHRC.

Certain age-old customs that have degenerated into bonded labour also attracted the attention of the Commission. One such case was that of centuries old social evil known as 'Bartan' in Odisha. When the Commission took up this matter there was resistance both from the society as well as from the establishment but persistent efforts of the Commission led to the abolition of this practice and redemption of large number of persons. This was one of the major initiatives taken by NHRC for ensuring social justice. This, indeed, was yet another case which made the Commission an agent of social change. There are numerous instances of individuals who got relief, only when they knocked at NHRC's doors. Smiles on their faces were their own reward.

As an individual I recall these instances as milestones of my two terms. Interaction and participation, both at national and international level have convinced me that human rights can become a practising creed free from any dogma, uninhibited by narrowness of any faith or religion. So much of pain and suffering can be alleviated if this creed becomes an act of faith for the current generation and generations to come. This is also a part of the mandate of the Commission to make people alive to their human rights and generate awareness not only to know their rights but also how to guard them. Essentially, it is the message of love, compassion and feeling for human beings.

When I recall all this I feel privileged to have been a part of this great body that National Human Rights Commission is. Its wide mandate covers all that curses the society today. In its approach it is all sweeping, involving everyone, young and old, men and women, the government and the civil society. In its vision it is inspired by Fundamental Rights, Universal Declaration of Human Rights and all that is of universal value in our religions. And, of course, judicial pronouncements delivered by Indian judiciary from time have widened the scope of human rights, definition and given a wider mandate to the Commission that is laid down in the Protection of Human Rights Act, 1993.

I am grateful to the National Human Rights Commission for publishing this compilation which is just a humble contribution to the human rights discourse.



10 December, 2012

(P. C. Sharma)

Articles

Human Rights Institutions in Conflict and Post-Conflict Situation

Recorded human history knows no other period which has witnessed so many convulsions and conflicts as the 20th century. Its history is replete with periods of human destruction and violations of human rights caused by slave-trade, colonization, ethnic discriminations and religious fanaticism giving rise to conflicts which mankind is still struggling to resolve. Competing political ideologies are no less responsible for carving out their own arenas of conflict and unrest. Terrorism and ethnic violence directly owe their existence to them.

Human suffering inflicted by armed conflicts like the two world wars and the starvation, disease and deprivations that followed called for a new world order - a world order giving central place to human dignity. The sense of self-preservation asserted itself and gave birth to the United Nations in 1945 which declared that its highest purpose was "to save succeeding generations from the scourge of wars, to reaffirm faith in fundamental human rights... to establish conditions under which justice and respect for international law could be maintained... and to promote social progress and better standards of life in larger freedom".

Adoption of Universal Declaration of Human Rights by the General Assembly in 1948 represented a new discourse in Human Rights education and set common goal for achievement for all people and in all nations. For the first time human rights norms were integrated into solving conflicts and peace building measures.

The two major International Covenants viz. International Covenant on Civil and Political Rights (ICCPR), 1966 and International Covenant on Economic, Social and Cultural Rights, 1979 are landmark steps taken by the comity of nations to protect human rights both in conflict and post-conflict situations. Apart from seeking to reduce tensions and conflicts, these two covenants have generated awareness in the international community about the emerging range of human rights. In the past, it used to yearn for these rights; now it asserts itself in demanding their share in full measure. This is a new shift. A new creed. This is the beginning of a new era.

Conflict has to be understood as a fact in human existence. It can be variously described depending, of course, on the situations - political, economic, cultural and religious - prevailing in a particular jurisdiction. It is also understood as "the pursuit of the incompatible (or seemingly incompatible)

goals by different individual groups related to different values, needs and interests." If not resolved timely and with foresight it has the potential of aggravating into visible struggles for rights or fully blown battles or wars as is the case in the Congo.

In societies where there are ethnic, religious and political tensions, where there is a history of past conflicts or rights abuses, where the institution of civil societies designed to provide redressal are weak, corrupt or non-existent; or, where there is political and economic instability, are fertile ground for outbreak of violence or abuse of human rights. It is in such arenas, of man made sufferings that UN and all its bodies have to step in and work in tune with Kofi Annan's words said in his address at the Harvard University in June 2004.

"It is in times of fear and anger, even more than in times of peace and tranquility, that you need Universal Human Rights, and spirit of mutual respect".

A watchful judiciary - in each international jurisdiction - plays a role which is vital and supplementary to the role of the UN for it has the mandate and capacity to act as a bulwark against local conflict situations and possesses the institutional strength to ensure rule of law.

Indian judiciary has played a crucial role in upholding the Fundamental Rights the Directive Principles. There cannot be better statement of human rights and liberties than what is written in the preamble to the Indian Constitution. There cannot be a better recipe for conflict resolution than the Directive Principles of the Constitution aiming at promoting the welfare of the people "by securing and protecting as effectively as it may, a social order in which justice - social, economic and political shall inform all institutions."

Establishment of the Human Rights institutions consistent with Paris Principles holds a great promise and hope for protecting human rights and dignity. They can play - and, in fact, in some cases they are playing - a significant role in protecting human rights both during and in post conflict situations.

The determination of the comity of nations and their commitment to international covenants is critical to binding them together in their endeavour to integrate human rights approach during conflict and in post conflict situations. It is, of course, true that there are certain conflicts which are peculiar to each country depending upon their local conditions. Therefore, they have to evolve their strategies in accordance with their own laws but overall concern for fundamental rights, the dignity and worth of human persons and the equal rights of men and women have to inform and guide all our efforts aimed at conflict resolution.

The Pioneer, 10th February 2011

Bane of Fight Against Corruption

The scandals of the last decade, but more importantly of the recent past --- each one mightier than the previous ones have revealed a certain incapacity to act. Depressing responses like 'the matter is being looked into', 'Commissions are being set up' and 'the law will take its course' have been dulled by overuse. When institutions like the CAG and statutory bodies like ombudsmen and Lokayuktas are baring the all-pervasive corruption, such deathly phraseology betrays an unwillingness to act promptly and also has an effect of trivialising the exposes and rubbishing the institutions. When the people wait for a frontal attack, such responses become part of the bane of the fight against graft.

Constitutional and criminal law is so well conceived and so precisely drafted that it would never fail us if those charged with enforcing it act with grit and commitment. Criminal Procedure Code is a proof by itself that if investigations are conducted according to its letter and spirit, course of law will be unhindered. Indian Evidence Act would serve eminently well if applied objectively and the Indian Penal Code leaves nothing for the law enforcers to imagine as to what constitutes a criminal offence.

Of course, special laws are needed to tackle special situations, but these should be thought of only if the existing laws have been proved redundant. After all, the cases relating to 2G scam and Commonwealth Games, ongoing CBI investigations into NRHM scam registered in the recent past, Harshad Mehta frauds, fodder scam and Satyam scam of older vintage were registered, investigated, and, later, tried under the existing laws just mentioned. It is a folly to assume that existing legal framework cannot be used for fighting corruption.

Each time a scam of monstrous proportions surfaces the most predictable and sickening reaction always is to reduce its intensity by declaring that such occurrences have taken place in previous regimes and earlier climes as well. This is a dangerous logic and perverse justification; this is a response meant not to catch the bull by its horns. It forgets that the people expect each incumbent entity to perform better than its previous dispensation. This ding-dong between the present and the past blights the future.

The Lokpal Bill - no doubt, needed to combat the all-pervasive corruption, especially in high places --- started its long journey in 1969 but not allowed to move forward by official inertia. Lack of will, absence of public protest and varying postures adopted by media made clear thinking almost impossible. But if the bill has not been passed, and public protest has lost

some of its intensity, it would be suicidal to assume that public protest against corruption has died down and lost its efficacy. It still reverberates. Truth has a tendency to hit back and, even belatedly, its attack may be lethal.

Mundhra scam, Dharam Teja scandal, and dismantling Karunanidhi's government by Indira Gandhi following revelations of corruption by Sarkaria Commission, Sukh Ram case and Telgi scandal are some of the success stories. This should encourage public discourse that the situation can still be redeemed and ever-expanding cynicism --- epitomised by the phrase used recently by the Editor-in-Chief - Shekhar Gupta "Sub Chor Hain" can be checked. There are still celebrated examples of public functionaries who perceive their duties as pious trust. Acknowledging their contribution will be an act of faith. However those charged with duties of governance owe it to the people, that they do not take shelter under such escapist explanations: corruption is a worldwide phenomenon.

Our courts, no doubt, have the strength and will to act, but action without speed is foredoomed. A functioning judiciary is the guarantor of fairness and powerful weapon against corruption. Slow pace of trials runs counter to the judicial verdict delivered in Menaka Gandhi case that trial should be fair, speedy and equitable. No one can question the judicial powers but it is fair to expect that convictions will be awarded in direct proportion to the gravity of offences. Investigations are necessary to enforce the judicial principle of crime and punishment. But investigations into individual cases of corruption suffer from lack of the broad sweep needed to overhaul the corrupt systems. This task is better left to the institutions --- both constitutional as well as statutory, and, of course, the government. All too dependence on criminal investigations is a job done only half-well.

Criminal justice system takes its first step forward when investigations are launched promptly. If these are done professionally, scientifically and with latest forensic skills to unmask the ugly face of graft, justice will be delivered speedily. Today's skills do not permit any arbitrary and subjective approach as a watchful public views its abuse --- though sometimes helplessly --- as immoral and unprofessional. Investigations in some cases of disproportionate assets have floundered on account of a combination of factors chiefly because of the flawed, investigations, political pressures to bend the laws and tardy pace of trials.

Citizens are often unaware of their rights but after several negative experiences, they are slowly waking up. Therefore living under the impression that public memory is short is a death wish. Trivialising the significance of institutions is act of unpardonable self-delusion. And let us not forget that political thought is expedient and bureaucratic explanations are often self-serving; together they mix well with the bane of fight against corruption.

The Indian Express, 13th April 2012

Gandhi, Apostle of Human Rights

Sans Parallel

As we observe the Human Rights day on December 12 we are reminded of Mahatma Gandhi's historic struggle for giving human's their natural rights; their right to freedom, their right to dignity and equality and their right to freedom from bondage, poverty, untouchability and discrimination - all true essence of human rights.

Two transformative incidents, both taking place in South Africa in 1893 moulded Gandhi's life marked the beginning of his unprecedented struggle against racial divisiveness, foreign rule, slavery and indentured labour. First was his eviction from his first class railway compartment Pietermaritzburg station (in 1893) ordered by an Englishman in his deep hatred of the 'coolies' and 'Samis' --- pejoratives used for Indian settlers. Second was a news item, in 'The Natal Mercury' about a proposed bill to deprive Indians of their right to elect representatives to Assembly.

Gandhiji was mortified by the xenophobia of the whites. It was his childhood belief that all human beings are equal and he wondered "how men can feel themselves honoured by the humiliation of their fellow beings".

He was just 24 years then and was ready to leave for India after one month's stay but he decided to stay on and fight the racial discrimination. He thought, to use Luise Fiser's words, "To flee leaving his countrymen in their predicament would be cowardice. The frail lawyer began to see himself in the role of "David assailing Goliath of social discrimination". His struggle - or the satyagrah - lasted 20 years. His victory came when the discriminatory bill which had become an act was repealed.

On his return to India in 1901, and on the advice of Gokhale, young Gandhi, leaving his family at Bombay, proceeded to Calcutta to attend the annual session of Indian National Congress. There he made a short speech of just five minutes but he did something there which no body had ever done before. Some delegates had filthied the place with excreta. Taking a broom in hand he cleaned the nightsoil from the venue of the session. In India it was a task that the highborn loathed as they believed it was reserved only for the low cast untouchables. It was his first step towards social regeneration and ridding the untouchables of indignities they had suffered for ages. All his life he did his own scavenging, and made others who stayed with him do that. He understood their pain which pierced his own soul. Often he lived

with them as one of their own. Untouchability to him was "excrescence" and "perversion of Hinduism". It was also caste discrimination, poverty, inequality, religious prejudice and deprivation - all rolled into one. Like his quest for India's freedom, getting rid of this social curse remained his life's mission. In fact, even beyond, when he said, "I may not be born again, but if it happens, I would like to be born in a family of scavengers so that I may relieve them of the inhuman, unhealthy and hateful practice of carrying night soil".

At the next session of Congress Gandhiji learnt how India's peasants were being exploited and reduced to serfdom by oppressive taxation and agrarian exploitation. Rajkumar Shukla - an emancipated peasant from Champaran approached Gandhiji at this session and requested him to visit Champaran to see the plight of Indigo growers.

Gandhiji's journey to Champaran first took him to the house of Rajendra Prasad (later to become President of India) at Patna. Rajen Babu was not at home. His servant, thinking Gandhiji to be an untouchable, allowed him to sleep on the floor, but forbade taking of water from the well lest the entire water gets polluted. However, later, Gandhiji entered Champaran in the company of Rajendra Prasad, Acharya Kripalani and many other practicing lawyers.

His presence and his mission bestirred the repressed peasantry of Champaran and raised hopes of their emancipation from exploitation and relief from 'Tin Kathia' system. This was an utterly exploitative system which the British planters used to force the peasants to grow indigo on part of their land even when its price was falling. If they did not, they were coerced to pay them (the British) compensation. This reduced the voiceless farmer to utter misery and helplessness.

The entire band of lawyers and others who accompanied Gandhiji immediately engaged themselves in 'rendering service' that involved causing enquiries and collecting facts. This quiet, but feverish activity ruffled the British rulers. The District Collector served an order on Gandhi the 'outsider' to leave Champaran. But he disobeyed it 'not for want of respect for lawful authority, but in obedience to the higher law of our being - the "Voice of Conscience"'. Seeing the ground-swell of support for the cause Gandhiji had espoused, the British changed their mind. The case registered against him for his defiance was withdrawn. "Tin Katia" system was abolished when 'mountain of evidence' was presented to local Commissioner in favour of the peasants and they were delivered from their repressive serfdom. Originally expected to spend a couple of weeks in Champaran, Gandhi stayed there almost for one year of his life.

His fight against exploitation of the poor farmers took him to Kheda in Gujarat next where the Collector had forced the farmers to pay land tax even though their crops had been 'killed' by heavy rains. Gandhi --aided by Vallabhbhai Patel - won again when the British agreed to remit the revenue tax.

Poverty pervading in all parts of India had reduced the people to pauperism and the repressive caste system only added to their misery. Gandhiji perceived that fight for freedom could not be waged without waging fight against poverty - universally acknowledged as the biggest violator of human rights.

He raised his voice against poverty and untouchability yet again in the Congress session at Nagpur and led it to pass a resolution for their complete abolition. For the first time, empowering the long-suppressed masses and restoring their dignity became a national goal which remained indistinguishable from the prime goal of India's independence. His vision of India unfolded in his own words:

I shall work for an India in which the poorest shall feel that it is their country, in whose making they have an effective voice, and India in which there shall be no high class and low class of people, an India in which all communities shall live in perfect harmony..... There can be no room in such an India for the curse of untouchability..... Women shall enjoy the same right as men.....This is the India of my dreams". This vision remained his life's agenda and his plan of action.

Dandi March, Gandhi's first act of civil disobedience was a novel method - not known to history - to fight injustice. It came as a clarion call to the "impoverished and dumb millions" to become partners in India's independence and to resist the "progressive exploitation" which was the cause of their poverty and misery. Salt --'condiment of the poor' -- which they must use to survive - was so taxed as it made it 'burdensome' for them to pay it. At the end of 24 days march he broke the salt laws by lifting a handful of salt from the sea beach. Expectedly, he was arrested and imprisoned but was saluted by people and Sarojini Naidu, standing beside him, hailed him as a "Deliverer". It was a historic triumph of the "battle for the right over might".

Perhaps after Adi Shankaracharya Gandhi was next to traverse the nation like a 'whirlwind' from North to South, from East to West, to its remotest nooks and corners and to use Jawaharlal Nehru's words 'like a beam of light' removed 'scales of darkness' from the eyes of the people. Again, none other than Gandhiji had ever before unified the nation to fight for their dignity and freedom from the colonial rule. He believed "if people acquired individual and collective dignity they would insist on their rights and then no body could hold them in bondage".

His ashram -- represented both the diversity and harmony of India -- for its inmates were from all classes, castes, religion and provinces of India and even from nations abroad. There he educated them all, served them without fear and nursed the sick without hesitation. Even leprosy - a disease dreaded as a curse did not deter him from nursing a patient and friend, Parchure Shastri, who had once lived in Sabarmati. He was admitted to Sevagram on condition that Gandhiji would personally nurse his wounds and he will not be permitted to die! Perhaps after Jesus Christ it was only Bapu who nursed a leper and gave him dignity.

Gandhiji's struggle reached its culmination in 1947 when India achieved independence from the British rule. This was the greatest victory of his battle fought for the rights of India's masses. Independence embodied all freedoms - freedom from bondage, freedom from fear, untouchability, discrimination, inequality et al.

In the 20th century of human rights Gandhiji was among the first ones- later on followed by Nelson Mandela, Martin Luther King and others, of course, - who ushered in an era of human dignity and fundamental rights. Human rights became divine rights in reverse; no longer the rights of kings and emperors but of the faceless masses, and of the voiceless people.

But his agenda still beacons us to complete the unfinished task. There are dangerous portents to remind us that the rights that he fought for are falling into jeopardy. The cult of violence he abhorred is raising its head. Poverty and inequalities he sought to remove are persisting. The divisive forces have become active again. Guardians of law whose duty it is to maintain vigil have lowered their guard. Steep fall in standards of governance is leading to erosion of faith in the rule of law. Failure of citizens to discharge their duties is also palpably discernable. Gandhiji did not fail to deliver a caution against all this. He said the rights cannot be enjoyed or protected without undergoing the rigors of discharging certain duties and responsibilities. The quest for human rights has to be pursued with full awareness of human duties. In his letter of Julian Huxley he wrote some of his most memorable lines.

I learned from my illiterate but wise mother that all rights (duties) to deserve and preserved come from duty well done. Thus, the very right to live accrues to us when we perform duty of citizenship of the World. From this fundamental statement, perhaps it is easy enough to define the duties of man and woman and co-relate every right to some corresponding duty to be first performed".

Human race is obliged to be worthy of being heir to the legacy of this Apostle of human rights sans parallel.

Corruption

Corruption, next to poverty is the biggest violator of human rights. The Durban Commitment to Effective Action Against Corruption says: "It deepens poverty; it debases human rights, it degrades the environment; it derails development, including private sector development; it can drive conflict in and between nations; and it destroys confidence in democracy and the legitimacy of governments. It debases human dignity and is universally condemned by the world's major faiths". In a country where stark economic inequalities, social injustice, caste based discrimination persist even though our constitution has banned all of them, the impact of corruption is lethal. What compounds this malaise is the failure of the State to implement laws meant to curb corruption. History holds a fundamental truth that historic changes are ushered in either by revolution or by social outrage or by legislative process. We are witnessing today a rare combination of a revolutionary spirit spurred by strong social anger expressing a quest for a tough legislative enactment capable of hitting at corruption at all levels. Failure to grasp the true essence of this urge of the people will mean missing an opportunity to devise legislative remedies for the disease of corruption.

Sadly, constitutional institutions like the Controller and Auditor General of India which still have some life left in them are not trusted. In a democracy institutions provide safeguards. They also guard against what does not enjoy the sanction of law. If the findings of institutional bodies are not respected constitutional mandate which they work under loses its relevance. Why forget that today it is the CAG, tomorrow it could be the turn of other constitutional institutions and statutory bodies.

Some people are holding constitutional discourses to teach the "ignorant" masses virtues of democratic processes. It is ironic that after the country has participated in more than 10 General Elections including elections to State Assemblies, universal adult franchise, regularly televised proceedings of the Parliament and the role of media, WE THE PEOPLE are still deemed to be ignorant of the functioning of the democracy and Parliamentary practices.

Facile explanations are being advanced that corruption is a feature of the developing economies. But our corruption is intrinsically home grown: product of arbitrary and unscrupulous use of power --- both political and bureaucratic --- culture of impunity, absence of the will to prosecute and

punish, manipulations of existing laws by corrupt corporate entities, cash for votes and failure of ground level machinery meant to provide job employment, food, health care, education etc. to the masses.

Situation is grim and it demands introspection and review. The provisions of the existing framework - be it Prevention of Corruption Act, CVC Act, Lokayukta, Ombudsmen etc. that hinder registration and investigation of cases of corruption, constrain prosecutions deserve to be replaced by a much stringent enactment that injects speed in the criminal justice system and guarantees unhalting trials.

About the suggestion that CBI should be merged in the proposed Lokpal, I firmly believe, on the basis of my long years in CBI, that it should retain its premier position and be allowed complete freedom to register, investigate and prosecute cases. As I write, prosecutions against 273 persons are pending and consent for registration in many cases is awaited. I used to wonder how the Single Directive which debarred registration of cases against officers of the rank of Joint Secretary and above was legalised after it was held invalid and unconstitutional by the Supreme Court in Vaneet Narain case. Allowing the CBI to retain its prime position, it should be strengthened by removing shackles that hinder its performance. This would help CBI to act as a potent additional tool to fight graft. It can assist any constitutional or statutory body as, in fact, it is doing even today. Besides, remember that CBI is not just investigating cases of corruption, but also those of special crimes like bomb blasts, terrorism, offences against the state, cyber crimes which would remain outside the jurisdiction of Lok Pal. A truncated CBI will suffer from decline in its professional standard and split accountability.

Corruption is not just scams and scandals, embezzlement of funds, acceptance of bribes or acts of quid pro quo; it is also allowing undesirable contactmen to operate, criminals entering legislature, adulteration of foodstuffs, spurious medicines, fake degrees in medicine, bonded labour, leaving the unorganized labour to the mercy of exploitative employees not paying minimum wages to the day labourers, rosters of non-existent employees, gratification for issuing BPL cards, turning a blind eye to health hazards such as silicosis and what not. Who are the victims? Only those who depend on the mercy of the State.

On the need for reforms in the executive, judicial and electoral structures enough has been written in the reports of Law Commissions, Administrative Reforms Commission, and in the Police Commission's reports. But only far too few of the recommendations are accepted and much less of them implemented. What hinders the implementation of their recommendation?

Perhaps it is the deep-seated desire for status quo and a strong self-preservation motive. In the cleansing exercise these reforms deserve priority. After 65 years of independence from colonial masters, time has come to fight for independence from indigenous misrule.

It would be apt to conclude with the words of celebrated jurist Justice Krishnaswami Iyer:

"If We, the people of India are to be true to its cultural heritage we must struggle to win Swaraj and jettison corruption."

The Indian Express, 31st August 2011

Silicosis - The National Killer

The man in the accompanying picture, Kalia - just twenty eight years - suffering from silicosis was asked in a T.V. interview: "how many people are left in your village?" His answer "I am the lone survivor". And the pity is that now even he is no more. He - like all other male members of his village - became victim of the irreversible slow killer - silicosis. This is true of several thousands of people all over the country who have contracted this disease from working in mines, slate industries, gem-cutting factories or other manufacturing units emitting fine invisible dust. Kalia, both in his life and death, symbolises the pathetic conditions the migrant workman live or work in.

This killer, first detected by Agricola in the mid - 16th century continues to take its toll till today. Reports received from NGO sectors paint a sordid picture of the prevalence of this disease, which is, sadly, in contrast to almost near denial of the existence of this killer by State authorities. Regional review meetings taken by National Human Rights Commission have revealed utter lack of concern of the state for the victims of the disease. The ignorance of the authorities about laws enacted to inspect and improve working conditions in sites where silica is taking toll of the poor migrant labourers is most disturbing. The laws cast a responsibility on the departments like labour, industries, health and district administration to implement preventive and rehabilitative measures - if any - that are in place, for, while this health hazard is wreaking havoc all over the country, utter lack of awareness or concern of the state authorities is only adding to the agonies of the poor workers.

It goes to the credit of civil society who have worked persistently to identify cases of silicosis expose apathy of the authorities. Their painstaking efforts have generated some degree of awareness about the existence of silicosis and its baneful effects on the health of workers and given some figures of those who have died.

One such example is the case of 43 widows of Rajasthan who lost their husbands to silica. Their tragedies were, though, only partially mitigated, when they were given financial relief as recommended by the NHRC, but they exhibited a rare human gesture when they travelled in a body from Rajasthan to Delhi and met me to express their gratitude to the Commission. A picture with them is a treasure I cherish.

The problem of silicosis is not just confined to the developing countries, but existing in the industrialised nations as well. But the knowledge of professionals and bureaucrats that silicosis is so wide-spread an incurable lung disease caused by inhaling of dust containing free crystalline silica is most deplorable. What is appalling is their lack of sensitivity to this serious health hazard. Often wrongly diagnosed by medical practitioners as tuberculosis, it remains undetected and untreated till it becomes too late. More often, the symptoms of T.B. and silicosis are quite similar and treatment that is, in variably prescribed is one that is usually prescribed for T.B. patients.

Silicosis is not just a serious health issue and but more importantly, a human rights issue as well. It has an impact not only on the right to life, but also on the right to live with dignity. All workers facing exposure to silica dust including mining, tunneling, stone work, sand blasting, among others are susceptible.

Unfortunately, unlike other serious health issues, no credible statistics about the extent of this health hazard exist. Why? Because no one ever thought of doing it. State apparatus have been found to be wanting in healthy work-conditions and establishing cells in hospitals for medical check-ups and treatment. The number of victims is growing as workers are driven to work on account of their utter poverty, and face the threat of being deprived of their lives.

The Ministry of labour has a rough idea that 94% of workers are engaged in unorganised sector without any safeguards like social security, insurance or medical cover. But it would be an unsound approach to delay solution on account of absence of credible data. What can be possibly achieved in good time is to create a machinery to have sound diagnostic, preventive, compensatory and rehabilitative measures. The number of persons detected to be suffering from silicosis and deaths that have taken place are sufficient to arouse concern about the gravity of silicosis and its effect on the health and lives of workers involved. Taking cognizance of this health hazard, the Hon'ble Court has directed Union Ministries of Health, Labour and Employment to work seriously towards tackling this health issue.

Current approach to this issue suffers from lack of any thought of social security for the workers - especially those falling in the category of migrant labourers. Dubious arguments are cited that the victims of silicosis do not come in the category of organised labour betraying total ignorance of the basic responsibility of the state for the well-being of all workers as envisioned in the acts such as Factories Act, Minimum Wages Act, Mines Act, Inter-state Migrant Workmen Act etc. National Occupational Safety Policy, is lying in archives as no plan for it has yet been framed. All states have failed in carrying

out survey of population at risk, taking any preventive measures such as disease profile, mandatory survey of workers and monitoring of the victims of silicosis. And it is an agonising reality that states have not agreed to pay any compensation even though the number and identities of the victims have been well established, just because the victims cannot be categorised as belonging to organized sector. The National Commission For Enterprises In The Unorganised Sector in its Report and Conditions of Work and Promotion of Livelihoods in the Unorganised Sector it is prominently mentioned: "The improvement in the conditions of livelihood of the unorganized workers depends not only on their own agencies, but also on the policy and regulatory framework as well as programme, which create the conditions which allow them to expand their livelihoods. The main responsibility for creating such conditions rests with the state.....". The Directive Principles also include provisions of just human conditions of work.

Absence of legislative protection by the state for the unorganized/ unprotected labour and, again absence of reinforcement and strengthening of inspection systems have worsened the plight of unorganized labour in India - worst among them being the victims of silicosis - and made them most miserable of the much publicised category of 'aam admi'. It is a wake-up call to better their lot.

The Pioneer, Thursday, 10th May 2012

Bhopal Gas Tragedy - Call for a Humane Approach

Bhopal gas tragedy of 1984 which has been compounded by miscarriage of justice, lack of accountability, utter failure of the corporate responsibility and, above all, a pittance of relief given by Union Carbide demands a response, a humane response. Even now, for it is still alive and continuing.

In all accidents resulting from human failure, vagaries of nature either on roads, railway tracks or the waterways, routine response of the State is to grant ex-gratia monetary relief to the living and the dead. The spontaneity of response in such situations can minimise their suffering. It can never mitigate it all together, though.

In the case of Bhopal tragedy, too, the initial response was quite similar. Ex-gratia payment of Rs. 1500/- to families having monthly income of Rs. 500/- or less was sanctioned. Widow-pension of Rs. 200/- (later Rs. 750/-) was provided among some other relief measures which, considering the enormity of the catastrophe were all too insufficient. Besides, there were complaints of mismanagement in registration for and distribution of relief.

Prosecuting the guilty, fixing accountability of those who cause such human tragedies is a task always assigned to courts, administrative probes, Commissions of Enquiry etc. that have a life of their own in which human suffering is prolonged, truth suffers and the public is brutalised.

Criminal justice system, on all accounts, has been found wanting. The charge-sheeted persons have been let off with punishment which is far too lenient in proportion to the gravity of their offences. And the out-of-court settlement of monetary compensation of 470 million dollars given to the lakhs of victims and their families with an inhibiting clause against any appeal is like giving alms to the beggars that the Bhopal gas victims have been reduced to.

Justice is a fundamental right enshrined in the Preamble to the Constitution and fair trial guaranteed under Article 21. Provision of speedy justice is an obligation cast on the State. The Supreme Court in its judgement in the *Best Bakery Case* has dwelt upon the concept of fair trial saying "the concept entails the familiar triangulation of interests of the accused, the victim and society It will not be correct to say it is only the accused who must be fairly dealt with. That would be turning a Nelson's eye to the needs of the society at large and victims, their families and relatives...."

The jurists and law pundits must ponder and find answers to : why the court was not allowed to conduct trial on the charges framed by it on the basis of CBI report; why the trial court could not invoke section 357 of the Cr.P.C., especially, when the gravity of the charge had been toned down only to section 304(A) IPC. Section 357(b) of Cr.P.C. empowers the court to order:

(b) " the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;"

And, finally, will this violation of right to justice lead us to that utter despair when we skeptically start thinking whether Cr.P.C., IPC and Indian Evidence Act are, indeed, capable of delivering justice when it comes to death and destruction of the lives and properties of the poor workers by the acts of commission and omission of those who are entrusted with the responsibility of protecting them.

In his book "It was Five Past Midnight in Bhopal" Dominique Lapierre has written this about Carbide's antecedents:

"... Carbide was to find itself condemned to heavy fines for having poured highly carcinogenic products into the Kanawha and the atmosphere. An enquiry conducted in the 'seventies was to reveal that the number of cancers diagnosed in the occupants of the valley was twenty-one per cent higher than the American national average. The incidences of cancer of the lung and endocrine glands, and leukaemia in particular, were among the highest in the country."

Union Carbide learnt no lesson from this indictment.

Driven by considerations of productivity and profiteering Carbide did not care that a chemical meant to exterminate a wide range of parasites for protection and safety of human beings would kill those very poor workers who were helping them to produce it. The nation would have been saved Bhopal tragedy if their past had served any guide to them.

The current debates in the media and public have brought into sharp focus three most important issues viz. failure of the justice delivery system, failure of corporate responsibility and inadequacy of monetary relief. The thrust of all endeavours, now, needs make amends on all these counts.

Criminal justice system can still be reactivated ensuring that this time it does not go on its sluggish pace that has characterised its path all these 26 years.

No corporate entity should be allowed to conduct its business without having in place a written undertaking of social responsibility. An act of Parliament can be the only means to ensure this. Albert Einstein delivered an advice to those engaged in corporate ventures long before Union Carbide set up their business. Quoted by Dominique Lapierre his following words have human

significance and universal appeal.

"Concern for man himself and his safety must always form the chief interest of all technical endeavours. Never forget this in the midst of your diagrams and equations."

India's constitution has given its people a unique institution, that is, its Parliament capable of rectifying all wrongs - judicial, legislative and executive - even belatedly. No other conceivable institution expresses the people's will more vocally and eloquently. Today the will of the people is all too palpably evident to augment relief to the victims of Bhopal tragedy, to do something for their present and their future.

The worth of human life can never be measured in terms of money. Union Carbide has definitely failed in its corporate responsibility when it agreed to give compensation of a sum of just 470 million dollars which is most inadequate when weighted in any human scale. Now it is for the Indian State to consider whether by a resolution of Parliament a liberal compensation in India's own currency can be given to adequately take care of the health and lives of the survivors. It is worth recalling that the government of Belarus spent 20% of its national budget on alleviating human suffering caused by Chernobyl nuclear accident. Today our government is well endowed with resources --- financial and material --- to take such an extraordinary decision. And to add to that, a willing nation will not grudge any contribution - like the education cess that is now being charged - and be partners in the national effort to alleviate the sufferings of victims of Bhopal tragedy.

We are living in an age of human rights and right to information. Giving a life of dignity - at least substantially, if not fully --- to those who have survived the tragedy should push all our deliberation to restore to them their human rights, chiefly, of course, the right to a life of dignity. There is a strong case to exercise the right to information vigorously to expose the misdeeds of those responsible for Bhopal tragedy. The principle of crime and punishment should be made to work effectively. In all expectations the relief should flow abundantly and liberally. This, perhaps, is the only way left now to atone for what could not be done in the past. It is late, no doubt. But, as the saying goes, it is never too late.

The Indian Express, Saturday, 19th June 2010

Corruption in Higher Judiciary- Ways and Means of Eradication

It is sad that corruption in higher judiciary which was unthinkable in the past or almost non-existent a decade and a half ago has become an issue of public debate. Abuse of power by a few members, fall in standards of probity of some others tend to sully the institution and rest of its members who are holding the fort.

The public debate has focussed on such vital issues as the independence of judiciary, its accountability, mode of selection of judges and having new legislation to constitute National Judicial Commission to oversee the performance of judges. It is primarily on account of some glaring examples of miscarriage of justice, and, to use Shri Ram Jethmalani's words*, "disconcerting compromise of integrity and impartiality" that these issues are being raised.

The arrest of a high court judge for corruption in Delhi, a judge in Rajasthan extending judicial favour in lieu of sexual favours, utter abuse of power and criminal misconduct of yet another judge whose case the CJI has recommended for impeachment, a serving judge committing rape, a Sessions Judge keeping links with the underworld in Mumbai, and the case of alleged misuse of Provident Fund by some judges in Ghaziabad have combined to dent peoples' confidence in judiciary. No wonder, a sensitive and tall jurist **Fali Nariman has written in 'anguish' that "some thing is rotten (not in the State of Denmark, as Hemlet said) but in the State of our higher judiciary".

Justice S.P. Bharucha, former Chief Justice of India once mentioned that 25% of the judges are corrupt. This figure was contested and different claims drawing comparisons have been made. However, compared to wide-spread corruption in the other organs of the State, the lesser number of reported cases of misconduct or malfeasance in higher judiciary is no solace or cause for satisfaction. The few which are there where there should be none is also a matter of grave concern. There is no room for complacency. In all humility, the leadership of the judiciary should accept it.

Corruption does exist in the executive, the legislature and the judiciary, all the three wings of the State. Ministers have been caught. Members of

*Judging the Judges by K. Mahesh & Bishwajit Bhattacharyya

**The Indian Express October 2, 2008

Parliament were caught in a scam relating to Parliament questions and human trafficking. We, the people get hurt when we read about all these things. But, when a judge is caught we are totally unnerved for that raises an all-too important question: whither judiciary!

During my long years in Indian Police I have seen many things pertaining to justice system from close quarters. I first saw the strength of the criminal justice system when a serving judge killed his family of four. The case was investigated with exemplary professional skills and its trial conducted with unimpeachable fairness. This District Judge was held guilty, sentenced to death and was hanged. The judiciary did not spare the judge. While his kith and kin grieved for him, the people applauded the judiciary. This happened in early seventies in a district of Assam where I served as Supdt. of Police.

My experience in CBI again afforded many opportunities to watch the criminal justice system perform. The higher judiciary made effective interventions and guided CBI investigations in very sensitive cases. It was their intervention that led to cancellation of arbitrary allotments of petrol pumps by the Petroleum Minister. It was their intervention that led to the cancellation of accommodation allotted to government servants by yet another Union Minister making blatant misuse of discretionary quota. Monitoring of CBI investigation by the highest judiciary in Hawala case is all too well known. There are more such instances when the judiciary lent support to CBI in carrying out investigations of difficult cases involving the high and the mighty.

But I have direct knowledge of the arrest of a judge of Delhi High Court on charges of corruption and another case of a judge and a magistrate booked in a bribery case. The investigation of these cases disclosed sordid details of the rot that started slowly setting in. These two cases, in themselves, epitomised all the features of corruption in judiciary that we bemoan. But here again, CBI's task of investigation could not have been completed without support from judiciary.

Corruption signifies a range of things. It is not just about material aggrandisements or seeking monetary gains. It includes abdication of the code of ethics and moral conduct, inept management of the power to judge, succumbing to extraneous pressure and, of course, lack of accountability. All these impact adversely on the objectivity and impartiality of those engaged in the task of governance and maintaining rule of law, especially, the ones assigned the sacred duty of judging.

Let us think over as to what has led us to this situation. Where are we headed for with Ramaswamys, Veeraswamy, Sumit Mukherji, Sumitra Sen and

Nirmal Yadav. How do we stem the rot? The Prime Minister of India has recently said that it was time for introspection to ensure that judicial appointments at all levels live up to the exacting standards associated with legal luminaries. He has also stressed the large unfinished agenda to reduce cost of litigation, the magnitude of long pending cases in courts and to ensure accessibility of justice system to the poor and the marginalized sectors of our people. Increasing the number of judicial functionaries and upgrading existing infrastructure are other significant measures that the Hon'ble Prime Minister has suggested. It is now incumbent upon the State and the higher judiciary to implement these suggestions.

Senior advocate and a well-known jurist PP Rao has observed that the Prevention of Corruption Act has not succeeded in checking corruption. He has, therefore opined that there is a need for a constitutional mechanism to weed out from the judiciary members suspected of moral turpitude. Others have suggested an in-house mechanism, which is both transparent and speedy for getting rid of judges of doubtful integrity. But no body knows it better than the judiciary that the principle tenet of their functions is that the guilty must be punished. Let them decide whether ? for doing so - the law invoked is the Prevention of Corruption Act or the Indian Penal Code or impeachment or other mechanisms that are being proposed. The paramount need of the hour is the will to act and act decisively to punish the guilty.

Existing method of selection of judges has aroused a serious debate. It is realised that the standards of selection must be improved giving primary consideration to competence and integrity and sound verification of their antecedents. How flawed or sound the present procedure of selection is has been amply commented upon by the present Chief Justice of India who has taken, to quote Fali Nariman, "some bold initiatives", to stem the rot. Former Chief Justice of India Justice J.S. Verma, in a recent interview* has, besides giving his considered opinion how the selections should be made, stressed the most vital point and that is, "Whatever the system, it is the honesty of purpose of the persons who are in charge of working that system that matters." The proposed National Judicial Commission, in-house set of rules of moral and ethical conduct, strict standards of accountability and legal action, no doubt, are effective tools for cleansing the system but ultimately it is the quality of the individual that would make or mar it.

All discussions about functioning of judiciary remain incomplete without mentioning the high accumulation of cases pending adjudication in courts. Unquestionably, it has resulted in delayed justice in many a case or its total denial in many others. Speedy trial of cases is a constitutional mandate.

*"Frontline" magazine, October 10, 2008

Therefore, when it takes years to convict an accused, especially, when he happens to be a dreaded out-law or a terrorist, it raises an accusing finger on the functioning of the justice delivery system. But let me add that while high pendency and delays ail the system, all of this cannot be ascribed to unjust motives or inefficiency of judges. Enormous output in disposal of cases recorded year by year by the vast majority of upright judges should dispel any despondency that exists. Of course, what is direly needed are reforms in this vital sphere and making ample provision for upgraded infrastructure to remove pendency and improve public faith in judiciary.

Higher judiciary in India has played a pivotal role in maintaining the democratic edifice of our polity. It has maintained vigil over the functioning of the executive. In the field of human rights its record is unparalleled. It has vastly expanded the scope of human rights jurisprudence and is now moving towards creating a corruption free society as one of the basic human rights. Therefore, freedom from corruption should be at the top of agenda of all judicial reforms.

In all known systems of administration of justice, there is nothing higher than the judiciary that the people look up to for justice. Indian masses, steeped in tradition and religion, have abiding faith in the God and the Judge. But if they don't get justice, they feel betrayed by both. Ladies and gentlemen, let us strive hard to avert such an eventuality.

Poverty Alleviation and Human Rights

An impression of extreme poverty formed years ago during a train journey to the North-east India has remained firmly etched in my mind. When the train stopped at a wayside station passengers threw remains of what they were eating on the platform. A few children, all in tatters and looking starved, pounced upon the food scattered on the platform and satisfied their hunger with whatever they could lay their hands upon.

That picture and the shock it gave me was evocative of the abject poverty that pervades India in its towns and villages. Children, who should have been in school receiving education, love and affection, were eking out their existence from the left-overs of those endowed with pelf and plenty. Such images have not been an uncommon sight in this highly over-populated country. There are -- and there always have been - several geographical entities where populations have been blighted by famine, poverty and pestilence for generations, making India, according to Human Development Report, 2005 the world's one of the most under-nourished countries.

India is home to 260 million people living below poverty line and the world over 1 billion and more are living on less than \$1 a day. In countries like Somalia and Haiti - just to name a few - food shortages have driven people to consume things which are, besides being serious health hazard, abominable to any civilized society. In Haiti, pregnant women are eating mud cakes believing it to be a source of calcium. These mud cakes have been consumed by them for years being unmindful of the risk to their pregnancies and its unproven medical effect.

"Poverty goes hand and hand with malnutrition and disease."* Besides being the main violator of human rights, it poses the greatest challenge to development. It is also a major cause of unemployment, deprivation, poor wages, low income, lack of education, and worst of all, fatalism. To quote Prof. Parmanand:

"The persistence of human deprivations amounts to a denial of economic and social rights Poverty makes a person vulnerable and helpless victim deprived of social, cultural and political freedom. Poverty is not just 'low

**"An Ideal for Which I am Prepared to Die" Speech by Nelson Mandela. April 20, 1964*

income' or 'low consumption' but a multiple deprivation causing premature death, chronic under-nourishment, illiteracy, and social exclusion. The realization of social and cultural rights, which are necessary for the survival of a person as a biological entity, therefore, is closely linked with the notion of human development, which means enlarging choices, expanding human freedoms and assuring human rights."

Nothing can mitigate poverty unless the material needs of the poor, including necessities of daily living, such as food, clothing, shelter or safe drinking water are ensured. Human rights approach to poverty reduction is essentially about empowerment of the destitute masses. It visualizes a society based on equality, equitable social system that prohibits both exploitation and discrimination. Above all, it includes a platform for vindicating human rights.

In recorded history, until 18th century, the State or the ruler did little to reduce poverty or ameliorate the appalling conditions in which the poor lived. The French Revolution was just the first jolt administered to the kings and feudal lords alike and pressed home the principles of equality, liberty and fraternity in a manner which was both dramatic and unforgettable in its intensity. Later, the Bolshevik Revolution in Russia put an end to a predatory Czar regime. These two revolutions shook the entire world and opened its eyes to a reality -- a reality of the poor and impoverished masses. Utterly oblivious of human rights, regimes such as these had no vision or humane approach towards poverty ridden masses. These revolts were, no doubt, violent revolts against exploitation, monopoly and unbridled concentration of wealth and resources in the hands of a few and the fury of their revolutionary upsurge did engulf some innocent lives but the consequences set the world thinking that endemic poverty was an issue before humanity that could no longer be ignored and that it was crying out for a solution having a humane face -- a solution based on equality, liberty and absence of discrimination.

In India, the masses lived on the munificence of the kings or the rulers anointed with divinity. They doled out charity to the hungry and the poor on special occasions like religious festivals and birthdays. Although steeped in religion and scriptures - all avowing equality and brotherhood - never did they think of any agrarian or other economic measures to alleviate misery of the poor. Worse, entrenched in their exalted position, they assumed divine rights to appropriate all resources. The poor, drained of all spirit and any cohesive force, resigned themselves to a fate and belief that they were ordained to live a life of poverty. There is no dearth of passages in our scriptures and lore sanctifying poverty as a condition that need not be questioned or challenged.

It is a historical fact that the unique system of inequality in the Hindu society, in particular, and in India as a whole, in general, was sustained and perpetuated by 'religious and ritual' conceptions. In his essay on "The Scheduled Castes and the Law," Prof. Parmanand, of Law Faculty of Delhi University has said "The traditional model of social stratification in which one's caste position in a ritually determined status of hierarchy summed up his total life - occupation, his education, his communal relations and other rights." In this kind of social organization, inequality was accepted a fundamental value and there was no 'rank-disequilibrium'.

It was not until 19th century and the first half of the 20th when humanity witnessed upheavals like revolutions, wars, freedom struggles as also reformist movements that brought poverty into the forefront of economic activities. First time it was thought that no economic policies or programmes can eradicate it unless these are just and fair and are capable of generating a social equilibrium by mitigating skewed distribution of income in society.

Acutely conscious of the repressive caste system that marginalized the poor by entrapping them in the grip of poverty, Mahatma Gandhi first raised his voice against untouchability in Nagpur session of the Congress Party and led it to pass a resolution for complete abolition of untouchability and inequality. For the first time, empowering the long-suppressed masses and bestowing on them human dignity, became a national goal. By and by, upliftment of the poor - be they the scheduled castes, overburdened farmers or the artisans or impoverished landless labourer - became central to the agenda of the freedom struggle. This movement launched by the Mahatma became the harbinger of several economic programmes including agrarian reforms, social reforms - all aiming at eradicating the scourge of poverty through greater self-reliance and higher share in decision-making. The ultimate goal was Swaraj and Sarvodaya (upliftment and common good of all) that primarily included raising the standards of living, providing education, health care, employment opportunities to the impoverished and socially excluded masses.

Dr. Bhim Rao Ambedkar, who coined the term 'Dalit' for the countless untouchables and the victims of caste system in India, vehemently questioned the Indian social order, which was ridden with inequalities, discrimination and rank ostracism of the scheduled castes. As Chairman of the Drafting Committee of the Constitution, he convinced the Constituent Assembly that failure to address the appalling conditions of the downtrodden and failure to provide adequate safeguards to scheduled castes would lead to serious social conflicts in independent India. It was his vision and untiring efforts that led to the provision for special privileges in the Constitution for the scheduled castes and the 'dalits'.

In America, Abraham Lincoln had signed the Emancipation Proclamation on January 1, 1863 seeking to put an end to slavery and poverty. He declared that ".....all persons held as slaves within the said designated states, and parts of states, are and henceforward shall be free and that the executive government of the United States, including the military and naval authorities thereof, will recognise and maintain the freedom of said persons."* Martin Luther King fought for the civil and political rights of the American blacks. Nelson Mandela waged a life-long struggle against the policy of apartheid, 'poverty and lack of human dignity' of the blacks in South Africa. These were extraordinary human endeavours that contributed to the movement of social emancipation of the depressed and the marginalized all over the world.

At the international level, Article 25(1) of the Universal Declaration of Human Rights (UDHR) in 1948 gave a loud and forceful utterance to this Vox populi in 1948 when it stated

"Everyone has the right to a standard of livingadequate for health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or lack of livelihood in circumstances beyond his control".

This message of the UDHR was further taken forward by the Vienna Conference and the Copenhagen Declaration, declaring that, social, cultural and economic rights are parts of the basic human rights and reaffirmed the link between human rights and development.

In Indian context this new international 'dharma' of equality, non-discrimination, and human rights found a powerful expression in our Constitution in 1951, which adopted fundamental rights, and Directive Principles as national goals of social transformation and economic upliftment. For the first time in India's history, the people of India "resolved..... to secure to all its citizens, justice --- social economic and political - liberty of thought, expression, belief and worship; equality of status and opportunity; and to promote among them all, fraternity assuring dignity of the individual and the unity and integrity of the nation became a solemn national programme". For the first time, a positive obligation has been cast on the state by Articles 21, 41, 46 and 47 of the Constitution to ensure protection of life and personal liberty, right to health and education for all citizens and, above all, ensuring distributive justice to weaker sections including scheduled castes and scheduled tribes. Further, the Constitution of India forbids the

*"The Emancipation Proclamation, January, 1863 by the President of the United States of America."

State - irrespective of any party that is in power - to indulge in any deviation from these goals. Article 13 ensures that laws inconsistent with or in derogation of the fundamental rights shall be held void and, thus, it accords paramountcy to fundamental rights enshrined in the Preamble to the Constitution. Concept of a welfare state and rights based approach, thus, emerged.

Education, social emancipation and economic development constitute the core mantra for poverty alleviation. But the magnitude of poverty in India is so huge that it demands State intervention. The strategies for poverty alleviation needs be a combination of rights-based approach and sound economics. "True economics is the economics of justice"*. Essentially, therefore, economic development must ensure even handed justice create better opportunities for the poor allowing them to participate in the growth process. And, at the same time, strengthen structures for social emancipation.

Ending age-old poverty and unequal social status among Indian masses is not an easy task. As per the estimates of the Planning Commission, 260 million people, i.e. approximately 26% of the country's population was living below the poverty line in 1999- 2000. This poses a great threat to the harmony and stability of the society through a widening gap between the rich and the poor. Out of 260 million people below poverty line, 193 million i.e. 75% of total poor live in rural and backward areas which makes the syndrome of deprivation much more complex. The rest 67 million who live in rural urban continuum, are beset with relative deprivation syndrome.

Community development - started in 1952 - is of prime importance in all poverty alleviation programmes. Agrarian reforms which are grass-root initiatives going hand in hand with other economic programmes of poverty reduction are capable of yielding sound results, especially:

1. In terms of creating an income generating assets base for self-employment of the rural poor.
2. By creating opportunities for wage employment for the poor, and
3. Area oriented development activities in backward regions such as dry lands, drought-prone areas, tribal, hill and desert areas.

18. Programmes such as Antodaya and Rural Integrated Development Programmes are singularly notable for their human approach and economic

* "Unto this Last" by John Ruskin"

thrust given to the national endeavour to provide sustainable livelihood to the poorest of the poor in rural areas. Schemes which include social mobilization of the poor --- whether they live in urban or rural sectors --- organize them into self-help groups for capacity building remain the core elements of these programmes.

Efforts made so far have, indeed yielded significant results in lowering levels of poverty. At the beginning of the first Five Year Plan, almost half of the Indian population was living below the poverty line, 80% of which lived in rural areas. This has been reduced to 26% of the population in 1999-2000 and as per the estimates of the Planning Commission; this will further come down to 10% by 2012.

The economic policies and programmes launched by the State can be significantly supplemented by the efforts of the National Human Rights Institutions. They can serve as watch-dogs of economic upliftment and ensure that the marginalized people are not left behind. To use the appropriate words of Dr. Arjun Sengupta, the NHRIs' should "recognize the eradication of poverty a human rights entitlement". They should engage the state and Central Governments to respond to the needs of poverty alleviation; be they the farmers' suicides, starvation deaths, removal of untouchability, bonded labour etc.

The National Human Rights Commission of India made a historic intervention in the districts of Koraput, Bolangir and Kalahandi (also known as KBK districts) of the State of Orissa ravaged by drought, hunger, poverty and disease. It stands out as one of the most significant human endeavours made by an institution any where in the world to understand and reduce the sufferings of the poor. The case had its origin in the reports of starvation deaths in these districts brought to the notice of the Commission in 1996. The proceedings of the Commission stretched over a number of years, aided by the untiring efforts of its Special Rapporteur, succeeded in making the State realize its basic obligation under article 21 of the Constitution, that is, to enable the citizens to live a "life with human dignity". The hearings of the Commission covered wide ranging matters basic to human existence like rural water supply schemes; public health care, social security which included old age/widow/disability pension schemes, public distribution system and national family benefit schemes; water and soil conservation measures and rural development schemes. Other interventions made in connection with starvation deaths in Andhra Pradesh, famine in Bundelkhand are significant for the proactive and rights based approach pursued by the National human Rights Commission for reducing poverty. The results achieved have been both tangible and encouraging. The powerful lesson arising from these

interventions was that it is the right-based action plans alone that can alleviate the conditions of the impoverished and the marginalized making them self-reliant, creating an economic muscle for this category of society and finally, inculcating in them the dignity of labour and awareness of their legitimate claim in the process of development. Justice S. Rajendra Babu, Chairperson of the National Human Rights Commission of India has very aptly summed up the right-based approach to poverty alleviation. I quote:

"National and international strategies addressing poverty reduction need to take into account the human rights dimension of poverty and its remedies. The essential idea underlying the adoption of a human rights approach to poverty reduction is that -policies and institutions for poverty reduction should be based strictly on the norms and values set out in the international law of human rights. Whether explicit or implicit, norms and values shape policies and institutions. The human rights based approach offers an explicit normative framework - that of international human rights. Underpinned by universally recognized moral values and reinforced by legal obligations, international human rights provide a compelling normative framework for the formulation of national and international policies, including poverty reduction strategies"

All the economic policies, legislative enactments and social restructuring that are essential tools for poverty reduction, removing inequalities and discrimination, are sure to yield positive gains if implemented with sensitivity and human approach. Rule of law is central to the implementation of all these measures. It must inspire all efforts of the State and the society to give succour and dignity to *"the last, the lowliest and least"*. Inept implementation, corrupt motives can subvert any well-intended programmes and policies, as indeed has been the case with regard to some of the very ambitious programmes. Finally, all those engaged in the task of reduction of poverty - be it the State or the civil society - should not think of resting, as the Father of the nation says, "so long as there is one able bodied man or woman without food or work".

**"words of Rabindra Nath Tagore. "*

Public Health Care and Rights of the Patients

Current century and half of the one that has gone by have ushered in an era of human rights. The most fundamental of these rights is the right to life with dignity. And crucial to the enjoyment of this right is the entitlement to health care. The Universal Declaration of Human Rights has affirmed it most effectively, "Everyone has the right to a standard of living adequate for the health of himself and of his family, including food, clothing, housing and medical care and necessary social services."

The key aspect of the right to health and for that matter rights of patients' are not just about access to health care and building of hospitals. It extends further. It includes a wide range of factors like freedom from non-consensual treatment, safe food, safe drinking water, adequate sanitation, health related education, non-discrimination, gender equality, etc. All these key aspects are essential for a balanced development of all human beings.

The Supreme Court of India in *Permanand Kataria vs. Union of India* has aptly observed that there can be no second opinion that preservation of human life is of paramount importance. Article 21 of the Constitution casts an obligation on the State to preserve life. A doctor at the government hospital positioned to meet the state obligation is, therefore, duty-bound to extend medical assistance for preserving life. The obligation being total, absolute and paramount, laws of procedure whether in statutes or otherwise which would interfere with the discharge of this obligation cannot be sustained and, must, therefore, give way.

The International Covenants and their Committees including Alma Ata Conference have put the people at the centre of health care. The universal assent given to these key elements has fostered a culture of Patients' Rights in today's world. The conventional approach of complete surrender of the patient to the doctor's authority and uncritical acceptance of his administrations and procedures is expected to give way to more intimate patients-doctor relationship. The patients are entitled to know what they are being subjected to by the doctors and nurses. The patient's entitlement is gradually expanding to include right to make choice of treatment, right to informed consent, freedom from exploitative practices, right to privacy and confidentiality, respect and dignity, knowledge of hospital rules and regulations, free consent, right to make complaint etc. All medical practices

that deny or limit equal access to healthcare for all persons, be it in respect of gender, caste have to be eschewed in favour of non-discriminatory approach.

Being a welfare State, India has introduced free medical services for its citizens and also formulated enlightened policies and programmes, but it has not enacted any legislation on the rights of the patients. Perhaps an enactment akin to US Patients' Bill of Rights is necessary to operationalise the patient's rights. Basic features of the US legislation are information disclosure, choice of providers and plans, access to emergency services, participation in treatment decisions, respect and non-discrimination, confidentiality of health information, complaints and appeals and consumer responsibilities.

In India patients rights got a fillip after the Consumer Protection Act (CPA) was passed in 1986 and it gained strength following the Supreme Court judgment (*Indian Medical Association vs. V.P. Shantha*, 1995 6 SCC 651) whereby the medical profession came under the CPA. Prior to the CPA the Government of India enacted Medical Council Act in 1956. The Code of Ethics of Medical Council and the norms of Nursing Council define the duties of doctors and nurses towards patients. All these form part and parcel of the patients' rights.

But these rights of the patients to attainable standards of health appear to be seriously threatened by illegal and unethical practices in medical profession, manufacture and distribution of fake or sub-standard drugs which are adversely affecting the rural sector and the poor people as they have no knowledge of what is being administered to them. There are also poignant cases of bodily impairment and serious disabilities and even mortality of patients resulting from professional negligence. None is better qualified than the medical professional themselves to maintain a vigil over such health hazards.

Being acutely conscious of the illegal practices that have crept in to the medical profession like securing employment on the basis of fake registration certificates, sub-standard quality of treatment, rampant quackery etc. the National Human Rights Commission had addressed this problem and has issued a wide range of recommendations covering HIV/AIDS, access to medical services, increasing awareness about certain dreaded diseases, regulation of public health services, dissemination of information and decentralization of authority through Panchayat Raj institutions, etc.

A unique practice of holding Public Hearings on Right to Health Care across the country was adopted by NHRC. These Workshops provided a forum to the patients to make grievances about the denial of health care and to assert their right to life and health.

Talking about the patients' rights one cannot be oblivious of the fact that the

current right based approach to health care has indeed, led to some conflict situations. While asserting their rights, the patients, ignore their responsibilities and tend to lay disproportionably greater stress on the obligations of the medical professionals and even go to the extent of launching legal action against them. While the patients right to health is sacrosanct which permits no lapses, instances of misplaced assertive actions tending to mar the concept of new and developing relationship between the patients and the doctors are, of late, surfacing. It is an obligation cast on all stakeholders that this new concept of intimate relationship between the medical professionals and receivers of health care is not allowed to become adversarial.

On this issue Justice Katju of the Supreme Court of India has also observed (2009) 3 SCC Cases 1, p 25 para 65) that the doctors, medical institutions and nursing homes need not be unduly worried about the performance of their functions. The law is a watchdog, and not a blood-hound and as long as doctors do their duty with reasonable care they will not be held liable even if the treatment is unsuccessful.

The vigil that the judiciary and institutions like NHRC are maintaining together can strike a healthy balance between the responsibilities and rights of the patients on one hand and obligations of medical professionals on the other. All for the sake of fostering the emerging culture of patients' rights.

Terrorism and Human Rights

Terrorism has been stalking the nation like King Hamlet's ghost with violent belligerence and disastrous consequences. Taking birth in local jurisdictions, where it thrives under various banners like religion, political ideology and fundamentalism of various sorts, terrorism has acquired a fanatical force and extended its reach beyond local boundaries. It has different motives in different lands but use of mindless violence, killing innocent people, spreading panic and creating an acute sense of insecurity is the common thread that runs through its sinews.

Definition or meaning of terrorism is not difficult to seek. The culture of violence that it has adopted has created its own definition; it is "the calculated use of violence or threat of violence to attain goals that are political, religious or ideological in nature. This is done through intimidation, coercion or instilling fear."

Terrorism has also been described variously as clash of civilisations, conflict of ideologies and religious fundamentalism. But in thrust and approach, it retains its character as essentially given to violence, subversion and disorder as opposed to civilised existence. Terrorists often resort to assassinations and mass murder, thus seriously jeopardising the right to life and impeding enjoyment of all forms.

For achieving their goal, terrorists select iconic symbols as targets to destroy them with unmatched ferocity. This is what we witnessed in Mumbai where the targets selected were the heritage buildings of Taj Mahal Palace, Victoria Railway Terminus apart from Oberoi-Trident Hotel.

It is significant to note that in not too distant past there has been a conspicuous shift in the motives of terrorists which has perhaps contributed to the changes in the manner some international terrorist groups have been structured. Loose affiliations with like-minded groups transcending geographical boundaries have forged a deadly partnership for a commonly perceived cause. The 9/11 attack on the World Trade Center and the Pentagon is a telling example of such alliances. Al Qaeda is the best-known trans-national terrorist organisation sending its committed foot-soldiers beyond territorial boundaries.

* 'Necessary Illusions' – Noam Chomsky

In Indian context, terrorism has been inspired by political, ideological and ethnic factors. But in its worst form it has aimed at destroying social fabric, creating a sense of loss of security and generating an intractable conflict situation.

Another form of terrorism in India is the left-wing extremism or naxalite violence. In its ideology it is oriented towards overthrow or subversion of the lawfully established democratic government which the naxalites pursue with violence using conventional and modern weaponry. Their techniques show utter disregard for the security or even rights of the people they are avowedly engaged in protecting. The gradual spread of naxalism to almost 200 districts of India has posed a formidable threat to the security of the Indian nation. The Home Minister of India has declared a firm resolve to fight this menace. And what is heartening, he has - at the same time - allayed all apprehensions by ensuring that while combating this menace the rights of the citizens will not be allowed to be violated.

Each manifestation of this scourge demands a solution based on true grasp of the factors that have given rise to it. What we witnessed in Punjab a decade ago was a challenge posed by the terrorists to the sovereignty of the State and security of innocent people. Once its true nature was grasped the strategies to fight the menace were suitably structured. And the success was enormous as people's confidence in the authority of the State for creating an environment of peace was restored. It is noteworthy that the strategies employed were a combination of both the will of the State and the people to effectively fight terrorism.

What is vital to fighting terrorism is the nature of response that each situation demands based on its geographical locale. The strategies employed in J&K would not yield desired results if applied to the situation prevailing in the North-East and vice versa. Similarly, the measures that helped to overcome the militancy in Punjab cannot be a panacea for other versions of terrorism prevailing in the country.

Another significant factor that also needs to be reckoned is that the weaponry employed by terrorists has vastly enhanced its lethal power. Use of missiles, biological and chemical weapons, latest innovations in technology and access to updated means of communications that the terrorist outfits are equipped with have to be countenanced with superior systems taking full advantage of latest advancements in technology and communications.

Half-hearted measures have never delivered and, therefore, the response has to be adequate and should come from a firm commitment to fight this monster. While addressing the Chief Ministers of the country on January 6,

the Union Home Minister most aptly stated that the level of preparedness must be raised and speed and decisiveness must characterise all responses to terrorism.

Additionally, a complete understanding of the profile of modern day terrorism is essential. Its nurseries have to be identified; its lethal power will have to be well understood; its support bases - whether within or outside our jurisdiction - have to be pin-pointed. The methodologies employed by the state must outclass strategies and resources of the terrorist organisations. This would also include tracking the routes of their financial support. Recognising that financial support is a factor which promotes terrorism, the Security Council in its Resolution No. SC/7158 has this to say:

"The Council also decided that States should prohibit their nationals or persons or entities in their territories from making funds, financial assets, economic resources, financial or other related services available to persons who commit or attempt to commit, facilitate or participate in the commission of terrorist acts. States should also refrain from providing any form of support to entities or persons involved in terrorist acts; take the necessary steps to prevent the commission of terrorist acts; deny safe haven to those who finance, plan, support, commit terrorist acts and provide safe havens as well."

By other terms, the Council decided that all States should prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other countries and their citizens. States should also ensure that anyone who has participated in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice. They should also ensure that terrorist acts are established as serious criminal offences in domestic laws and regulations and that the seriousness of such acts is duly reflected in sentences served."

It needs no proof or confirmation that today's trans-national terrorism is being perpetrated both by state and non-state actors - sometimes separately, often jointly. This is a factor which will have to be countenanced with grit and determined will of the state.

Having said that, we have to address the basic issue that the fight against terrorism cannot be allowed to result in the violation of human rights. To quote the well-known author Paul Hoffman, "History shows that when societies trade human rights for security most often they get neither."

It is not disputed that when the security of a country is in danger, public peace is threatened, economic order faces disruption and the existence of people is in peril, the Government and its security forces have to combat this

threat with effective counter-terrorism strategies. Without protecting the safety and security of the nation, individual rights cannot be protected.

Terrorism in India is remarkable for its diversity, its varying degree of violence, its intensity and its peculiar geographic locales. But the experience gained from terrorist strikes leads to an inescapable conclusion that the true success of fight against terrorism rests on the support of the society. Nothing is more crucial to winning such a support than an assurance of guaranteeing safeguards of the natural or constitutional rights of the citizens. In fact, the State is put on its most difficult test in fighting terrorism as the fight is not only directed against the terrorists but also towards ensuring security of the citizens in the arenas of strife and conflict. State must guard against unwittingly or willingly falling into the mould of creating panic or using coercion which the terrorists so vehemently espouse. I say this because some of the by-products of anti-terrorism measures like fake-encounters, torture and abuse of authority have admittedly resulted in some serious violations of the rights of the citizens.

Nothing can weaken our response worse than the erosion of people's confidence in governance and deterioration of the rule of law. Preservation of the democratic rights of the citizens is a guarantee of winning their willing support. The notable example is the public support for government's fight against militancy in Punjab which proved as vital as other resources that were employed. It has also forcefully demonstrated that the relationship between national security and integrity of the individuals who comprise the State is symbiotic and not antagonistic. The State has no meaning without its people. Besides, the determination of the State to ensure the functioning of the democratic process has kept the people on its side.

Any discourse on terrorism often conjures up violent counter strikes as the only answer that the State is generally expected to give. That it is also possible to confront this issue with combination of humane and democratic measures, economic programmes which are free from discrimination and corruption is not given the consideration it deserves to be an integral component of all strategies. The Supreme Court has already laid down the guidelines for our forces engaged in fighting terrorism. They have been issued a note of caution regarding the extent of use of power. The court has struck a balance between the security needs of the country and contemporary norms of civilised behaviour. Underscoring its firm resolve to equip the state with effective norms to deal with terrorism, it has cautioned against exercise of unbridled authority.

The scheme of governance accords a pivotal position to the police in the executive functions of the State. Their status and the legal authority conferred

on them by various laws and statutes always puts them alongwith paramilitary forces in the vanguard of fight against terrorism and violation of human rights. Often working in trying circumstances, they are the first to step into all arenas of conflict situations and bear the brunt of the lethal power of the terrorist outfits. It falls on the State to equip the police and the paramilitary forces with resources including weaponry which is superior in nature, both in terms of quality and quantity, but more importantly to use it with such circumspection as it causes no collateral damage to the innocent citizens for the preservation of whose rights, in fact, the State fights the terrorist menace. In other words even in emergent situations like terrorism, extremism, insurgency etc., the rule of law ensuring protection of the human rights of the populace should be an overriding consideration.

While concluding it can be said that there is, no doubt, a conflict of perception and objectives between the State and the terrorists. But the State cannot afford to have any contradiction or dichotomy in its response to fight terrorism and its commitment to protection of constitutional rights of the people.

The experience shows that while successful anti-terrorism strategies yields lasting results and evokes public approbation, the violation of human rights and abuse of power lingers on in public memory for long often overshadowing all achievements made in the fight against terrorism.

Shepherd of the Scavengers

"I may not be born again, but if it happens I would like to be born in a family of scavengers so that I may relieve them of the inhuman, unhealthy and hateful practice of carrying night soil". These are Gandhiji's famous words. Born into a family of scavengers in 1966, Bezwada Wilson is no Gandhi reborn, but born with something of a Gandhi in him. Working for generations in Kolar Gold Fields (KGF) what his family handled was no gold - only human excreta.

Wilson's personal encounter with scavenging came when he saved a sanitary worker from falling into a pit of night-soil and barely survived drowning himself into it. He wanted to die, says Wilson. That day his life changed. He resolved to wage a war against this 'hateful practice' and 'relieve' not only his family but the entire community of the scourge of manual scavenging.

Starting his education in a school reserved for scavengers' children, Wilson went up to get post graduation degree. Refusing to adopt the family profession, he applied for a job. He tore off the appointment letter in utter disgust when he discovered that the offer was only for a scavenger's job. His degrees notwithstanding! Removal of manual scavenging became his life time job then. Torn pieces of the appointment letter are still kept as a treasure in the tiny archives that the family owns.

Bezwada Wilson attracted evident attention at a recent workshop on manual scavenging organized by NHRC. Servants of the public used officialese with remarkable effect denying existence of scavenging where it still exists and creating a hype about States where supposedly it has been eliminated. Wilson did not allow any claim go unchallenged. Photographic evidence, figures supported by surveys and site visits exposed the wide gaps between what was claimed to have been done and a lot that remains.

Kolar township inhabiting about two lakh people was festering with large bins. The banality of the problem was devastating as it produced alcoholism, poverty, unemployment and illiteracy. Wilson made it his battle ground and announced, "This is my personal problem now! I will do a dharna before KGF head office. If you want to support me, do it. If you don't I will anyway go ahead". Total abolition of manual scavenging became the slogan and the goal of the Safai Karamchari Andolan, which Wilson had formed as a vehicle of his campaign.

Wilson firmly believes that if the scavengers mobilize themselves, they can achieve complete abolition of manual scavenging. Trudging long distances, organizing cycle rallies, Wilson toured length and breadth of Karnataka. His triumph came when in an emergency Board meeting in 1994, KGF Board abolished manual scavenging.

In this moment of triumph Wilson left KGF. He toured Andhra Pradesh and then moved on to the North to extend the reach of his Safai Karamchari Andolan. Though always in the vanguard of his fight, he does not quarrel or pick up a fight. Ever willing to be helpful he never fails to expose the false claims by Govt. bodies. This is how he leads Safai Karamchari Andolan.

Wilson's Andolan has achieved remarkable awareness that scavenging is, indeed, a human problem and not a labour issue. His calm face belies his restless soul. Deeply religious with a firm faith in the Church, he is not afraid of saying that "the Church and its Ministers want to talk of the Kingdom hereafter, but not about the living hell today". The fountainhead of his inspiration are Bible, Bapu and the Baba (Ambedkar). Being youngest Wilson was the darling of his mother Rachal, herself a devout Christian. She desired that her son should become a pastor. Instead, he has become the shepherd of the scavengers.

The Tribune, 22nd September 2008

*Life its own
Moments*



Shri P. C. Sharma as a young officer in Assam

Assam : Down the Memory Lane

Reminiscing about the years we spent in Assam is a fond pastime of my wife and mine. The beauty of its people enhanced by their colourful costumes, especially, of the womenfolk, nature's layout, the infinite variety of its flora and fauna, and its cultural mosaic truly make this State an India in microcosm. It is unimaginable for anyone to forget Assam even after a short visit, but it is absolutely unthinkable for those like me who have lived there not to fall in love forever.

Joining in Shillong in December 1967 as an IPS probationer marked the beginning of my eventful career. Walking to and back from office in uniform was a lesson learnt, to be on your own in day-to-day police working. KPS Gill, SP Shillong, was the only one using a Willy Jeep.

The first lesson in policing was learnt when the people of Khasi, Jaintia and Garo Hills started a most peaceful agitation for a separate State. The Khaki uniforms of policemen on duty contrasted with the dainty dresses of Khasi girls and smart outfits of all others. They would gather in front of the imposing Secretariat building, do group dancing, chant slogans, serve tea to each other, listen to their leader Nicholas Roy and depart leaving the venue clean and spruced up for the next day. Mr. Gill have no orders to be though with agitationists. The agitation succeeded and Meghalaya became a reality. I thought to myself if that was the way to conduct an agitation and handle a crowd, it was the most welcome job to do.

This complacency was rudely shaken when, after some time, a violent agitation gripped Guwahati over the so-called "outsiders" issues. Arson, attacks, and firing-the stuff of most agitations, not only in Assam but all over the country - was a defining moment for police officers of Assam, young and old. Gill was moved to Guwahati where he was really tough. The agitation did not succeed. It was controlled.

The posing as an Additional SP in the vibrant city of Guwahati was among the most memorable positions I held in Assam. Here policing was more challenging, more complicated. Agitations for new refineries, language issue, the AASU agitation, 'bandhs', and crimes of all hues kept you on your toes. Policing was firmer and more professional. But even in the midst of this nerve racking schedule, there were moment of happy social mixing with colleagues, indulgence in some affairs of the heart and some diversions like visits to Manas games sanctuary.

Time in Guwahati was also an opportunity to know Assamese people and their society from close quarters. Uniquely hospitable, always kind and considerate, especially to people like me hailing from other States, Assamese people never made you feel out of place. Their food, both vegetarian and non-vegetarian, full of variety, neat and delicious, traditionally served by ladies with extraordinary grace, enriches your stay there. And Assamese festivals, Bihu topping them all, are the ornaments of their culture. I have always felt that if Assam had been a thousand kilometres nearer home I would have never preferred to go out on deputation.

The Bangladesh war of 1971 was a cataclysmic event. Assam hosted lakhs of refugees driven into its territories by persecution by Pakistan Army junta and hunger. It was a huge human problem, a social upheaval, an international political event and a war between India and Pakistan. The Assam Police stretched itself to the maximum not only providing protection to the refugees, but later, security to the thousands of prisoners of war as well. The war resulted in creation of a sovereign state of Bangladesh. It was a historic event, but the role of Assam Police in handling the influx of refugees was also a milestone in their own history.

The next landmark was my posting in the 8th battalion at Nagaon. Later I was posted at Dhubri as the SP, Goalpara district. Living in a beautiful bungalow - we used to call it the White House - with the Brahmaputra flowing in front, was delightful in an otherwise small, sleepy old town of Dhubri. Problems were wide ranging: border crimes, dacoities, murders, kidnappings, floods, Bodo Agitation and illegal migration from across the border:

DIG (Border) and Central Range (Nowgong) was my next posting. The problems I faced in this position had state-wide ramifications. Checking the onslaught of illegal migrants, which a Supreme Court judge later described as being akin to aggression, was a major task. The violent phase of unrest preceding the Assembly elections in 1983 - convulsed the entire Assam Valley. It was madness stalking the length and breadth of the State. An ethnic violence here, communal strife there, and elsewhere the pent up feelings against encroachments on tribal lands and at several other places it was just settings scores over the unresolved past issues. All this has been most graphically described by intrepid journalist Shekhar Gupta.

I saw the havoc caused by this madness at Nellie, a nondescript village catapulted at once on the map of the world. Hordes of VIPs came, but only a few like Indira Gandhi and Mother Teresa could apply the healing balm. But it was not a problem which police alone could handle. It was the consequence of an utter failure of the State machinery, rendering it incapable of holding Assembly elections. Nellie is an indelible scar on my memory as it should be on that of all those who brought the situation to such a pass. It is

a reminder of the basest human feeling depriving fellow humans of their right to life. It is also a grim reminder for the future that if the governance fails the lives of all citizens will be at stake.

Account of my years in Assam will remain incomplete without writing how I felt about the river of all rivers, the mighty Brahmaputra. Being the size of an ocean, serving as a lifeline, fearsome when in spate, serene and placid with 'little startled waves' when not in tide and a navigator's delight-this river has conferred a unique identity and exclusivity on Assam. For us doing river policing it was a combination of fun, challenges and adventure. Assam's culture is inextricably woven with the ebbs and tides of this river. Its Majuli island-the biggest inhabited river island in the world is the birthplace of Vaishnavism which till date maintains its hold on the Assamese thought and culture. This river is unique.

Finally, it was my fortune, my privilege to be part of the great Assam Police. It has served the people of Assam eminently in responding to that basic human urge, a sense of security. Its ups are many but its downs only a few. No other police force may have faced problems of the magnitude which the Assam Police has faced; be it militancy, insurgency, terrorism, natural calamities, sabotage, etc. Making it to the top post as Director, CBI and my current assignment as Member, National Human Rights Commission-all this I owe to this great organization, the hallmark of which is its human material and its pride a galaxy of veteran police officers.

My wife and I remember Assam daily, yes, daily and in order to avoid any slip-up we have named our daughter Bihu. And I have been wearing my signature cap, a mizo headgear, daily since the time I joined the Assam Police.

Assam Tribune, 28th May 2012

Air-Conditioned Views

Discussions on contentious public issues like Naxalism, suicide by farmers, terrorism etc. generate much heat and passion. The remark that is often made to silence those voicing opposite views is: "Sitting in air-conditioned rooms what do you people know about the reality or ground situation". It can hardly be said with certainty whether these persons are themselves close to reality. And be it remembered that all that they say is itself said in either an air-conditioned conference hall or an auditorium!

In 1902 Willis Carrier first made an apparatus that controlled the temperature and air humidity. This 'chiller' now known the world over as air-conditioner has travelled across oceans and continents and fought searing heat waves, and has now become an invention that many find it hard to live without.

But there are exceptions to the magic of this technological wonder. Gandhiji lived all his life in ashrams and jhuggies. He had no use for air-conditioners and it is hard to imagine anybody with a cooler temperament and closer to the reality of the Indian situation than the Mahatma.

His views remained unchanged even when he was ushered into an air-conditioned study by Lord Mountbatten who wanted to discuss with him the issue of partition of India. The air-conditioner in Mountbatten's study nearly led to a 'catastrophe'. Edvina Mountbatten who saw Gandhiji's shoulders shaking snapped the air-conditioner off and covered him with her husband's bridge-sweaters. This implacable foe of technology refused to budge from his views on the partition of India which he had firmly set himself against.

Legendary Hakim Abdul Hameed of Hamdard Dawakhana was similarly opposed to air-conditioning. He found nothing curative in it. He cured countless people while sitting, all his life, in a dimly lit room with a faintly moving ceiling fan.

It is in human nature to yearn for cool climes or comforts when troubled by heat. Romans used aqua ducts. Our 'Rishis' enjoyed the cool breeze in their sequestered ashrams in the midst of jungles and did lofty thinking. Even 'Khap-Panchayats' conduct their deliberations under well shaded 'Neem' or 'Banyan' trees.

But some comfort lovers are incorrigible. I recall the wife of a senior officer in Assam declining to accompany him to a mofussil town where he was posted to saying "AC aru coco cola na holey, moi kinekva thakim" (how shall I stay without AC and coca cola).

Today tiny tots reared in air-conditioned homes complain when their classrooms and dormitories are found lacking in this facility. An example of a detainee in a lock-up is worth citing. His kin came to me the other day and complained, "The lock-up is lacking in 'basic' facilities like western style commode and cooling device!"

Our Parliament and Assemblies, the tribunes of our people, so well air-conditioned and their proceedings so well televised belie that air conditioning can always have cooling effect. Our representatives claiming proximity to reality and people's feelings --- which, indeed, they are expected to --- sometimes forget all about air-conditioning when they lunge for the throats of those who combat their views. Isn't it a reverse impact?

The Tribune, 1st October 2010

An Amazing Indian

Short in stature, thinly built, clad in coarse khadi and a 'jhola' stacked with photocopies of government orders and court judgements hanging down his shoulder, Baghambar Pattnaik is an amazing Indian. His wizened face rarely betrays a smile, his eyes have a piercing gaze but his persona is a picture of humility. He met me 3 or 4 years back with a petition against hereditary system of bonded labour being practised in one of states on the east coast of India.

Speaking in staccato style, he explained with fire and fervor against the feudal custom of 'Bartan'. Washing the feet of the guests, serving them meals on banana leaves and collect them later and performing other abominable community services are the routine features of the 'Bartan'. It rewarded the 'sewaks' only with six 'gaunis' (15 kg of paddy) in a year and left-overs of the meals is what is left for the 'sewaks' to feed themselves on. The system has firmly entrenched itself in social milieu and prevailing for centuries it has become hereditary and has acquired social sanction and tacit approval of the authorities.

In our tete-a-tete, Pattnaik poured his disgust against the Bartan, his anger against the bureaucracy and his rage against the feudal elements. His frustration was total at district level authorities who failed to stop this venal practice - why, for it benefited the elite of the society which included the classes that most persons in authority themselves come from.

Submission to this degrading custom yielded a pittance, but failure to perform invited enormous wrath of the perpetrators. In practice almost all over the state the custom enjoyed wide-spread support, but the opposition to it was muted and feeble.

Baghambar Pattanaik decided years back to chuck his job of a school teacher and resolved to raise his voice against the Bartan. Deriving no benefits of his job, having no home stead for shelter, not enough money for buying stationary and getting his petitions typed, Baghambar was an unlikely warrior against the "sea of trouble" that his fight had become. In his feeble frame of body and almost none to stand by him, this lonely figure decided to follow Tagor's advice "Ekla Chalo". But his greatest strength was his resolve to fight and his belief that someday there will be someone on his side, too.

Reminded of Hamlet's line "there is divinity that shapes over ends;" and an intense belief that each human being has the potential of making history, I decided to push his case to the National Human Rights Commission. This time he was not alone.

Protracted proceedings before the court of the Commission - a veritable exercise in ensuring social justice - had the senior bureaucrats, district officials stand before the Commission and explain their failure to eradicate 'Bartan'. They quoted chapter and verse and expounded various theories that people performing 'Bartan' duties in rural areas could not be deemed as bonded labour as they were doing social service. But during the Commission's proceedings they soon learnt that their pleadings were hollow and their ignorance was colossal.

Finally, the National Human Rights Commission held that "Bartan was a degrading social practice falling within the pale of bonded labour". Conceding the Commission's observation the state government issued a notification to the effect "since time immemorial" the custom of 'Bartan' "was exploitative and beneath the dignity of human beings" and notified that such practice is abolished. The constitutional promise of an egalitarian society has been redeemed, though only partially. Baghambar's face registered a smile. This was his triumph and for the Commission, a landmark.

The Tribune, 6th March 2012

On the Spot with Indira

Indira Gandhi had struck an amazing affinity with India's masses and travelled to all the nooks and corners of this vast land. I saw her as a police officer on several occasions during her visits to Assam.

On October 2, 1970 Indira Gandhi came to unveil Mahatma Gandhi's statue on Sarania hill in Guwahati. Security arrangements were mounted in the afternoon but cloudy weather delayed her flight and when she arrived it was getting dark. People of Guwahati were waiting to see Indira Gandhi. Sensitive to their feelings she wanted to be seen by them even under the pall of cloudy invisibility. She decided to sit in the front seat of the ambassador car holding an electric device. Having a glimpse of Indira Gandhi, made radiant by the focused light was the reward of the waiting people.

Driven by persecution and hunger, millions of people from the then East Pakistan trudged long distances for shelter and survival in Assam in 1971. The concerned Prime Minister came to visit the refugee camps. She felt their pain and they knew that she was the one to give them succour and their freedom. The living conditions in camps accommodating lakhs of people, men, women and children - young and old, sick and dying, the stench emanating from festering unhygiene moved her but did not make her flinch either from the place or from her mission. In 1972 she fought and won the cataclysmic war with Pakistan that gave birth to a sovereign Bangladesh.

Next I saw her alighting from a plane as a happy mother, mother-in-law and a grandmother on way to Shillong. She arrived at Borjar airport with Rajiv Gandhi, Sonia and her grand children. Governor B.K. Nehru who was at the airport flew with them to Shillong in an army chopper.

She was there in Guwahati in December 1976 to preside over the session of the Congress Party. Being in charge of the security of the venue, especially, where all the leaders were seated I watched Indira Gandhi come and go and also witnessed her presiding over the session in a most regal manner. After unfurling the Congress flag her voice choked when she spoke about sacrifices made by the Indian people to win independence.

She came to the session ---morning and afternoon - attired each time in colourful regional costumes representing the variety of the Northeast. A more adorable person to adorn these exquisite costumes was hard to imagine.

One day she came dressed in Assamese mekhla and chadar. It was Indira Gandhi the most elegant at her feminine best. People fixed their gaze so firmly on her that for a moment it looked as though they got the much-wanted relief from the political cacophony.

The security arrangements of the platform where the Prime Minister Indira Gandhi, Sanjay Gandhi, the Congress president and almost all members of the Cabinet used to sit were tight and unobtrusive. But I could see Indira Gandhi kept surveying the entire venue frequently and intently giving an impression of her own alertness about her surroundings.

In 1983, Assam was torn by unprecedented communal/ethnic violence. Thousands who fled their homes were given shelter and relief in camps.

Fighting this violence was the most arduous task of Assam police in 1983. Led by redoubtable K.P.S. Gill, they worked days on end quelling mob furies. We did not sleep for days, could not change our shoes or uniform and had no time even to shave. It was most painful to see communal passions, senseless violence that devastated several areas where people of different groups --- religious and ethnic --- had been otherwise living in peace and harmony.

The Prime Minister came to see the conditions of the victims in their camps. It was a daunting task for the police engaged in security 'bandobast' especially, when Indira Gandhi ignored all warnings of threats and danger. She was keen to visit the people and they were eager to receive her even in the midst of their misery.

She came to Madhavpara, a rural hamlet in Nagaon district. I was there on duty. I saw her helicopter land on a helipad in a paddy field. From the helipad she walked straight to the 'Namghar', a place of religious congregation converted into a temporary camp. Immediately the people surrounded her. They were waiting to see her for they knew she was there to listen to their woes. The grateful people performed her 'aarti', gave her 'gamcha' and 'jhappi' an intrinsic Assamese way of welcoming. Again she was moved. Again the bonding was complete.

Her visit to Nelli - a vast, difficult and forested terrain ravaged by violence has permanently stayed in my memory. Several big wigs made ritualistic visits to the place but the two who came to give comfort and solace were Mother Teresa and Indira Gandhi. The police had mounted security arrangements when the Prime Minister's helicopter landed at Jogigopa - a nearby small town.

On arrival the PM just listened. She did not react to what she was being

told. But grasped the gravity of the situation in no time. She then decided to visit the area in a jeep in which I accompanied her. It was an opportunity to explain to her the topography of the place, composition of the communities living there, strife that was the cause of festering undercurrents of discord and enmity.

Stench in the air and dust of the unpaved road was nauseating. Covering her face with her sari, Indira Gandhi got down from the jeep and surveyed the area as much as the topography permitted. The accompanying photographer got his opportunity. The picture he took was published in several newspapers, magazines. It said more than the words could describe. I have kept it as a reminder of those bad days. I often show it to friends to guess who the lady in the veil is. She being the most photographed leader and the most visible face of India, they are often right to say it is Indira Gandhi.

For me it was a unique personal experience to be on the spot. Before leaving, Indira Gandhi did not fail to thank us. Also we got some coffee and water from her helicopter and refresh ourselves. We felt encouraged to continue to do our duty. Lack of sleep and exhaustion left us instantaneously as the chopper chugged and soared into the sky with the Prime Minister on board.

The Indian Express, 19th November 2010

Birds of Different Feathers

Birds of a feather flock together but birds of different feathers eating together is a rare sight we often see in the back-lawn of our residence.

In Delhi people throw grains at roundabouts and in some parks. Pigeons in hundreds descend on these spots to have their fill. How they swoop down to these eateries and fly away in huge flocks is a sight most pleasing.

In Lodhi Gardens ducks come cackling and go back to the fountain pool after their breakfast or mid-day meals. They rarely fly but how they sail majestically and dip their necks into the water to catch a fish or a toad is a characteristic unique to this flock.

We witness a rare sight of coexistence of birds of different hues. Crows, parrots, pigeons, mynahs, house-sparrows, peacocks come in different numbers when my wife gives them bread pieces laced with cheese, sauce or jam --- a tempting menu for anyone.

The members of this motley crowd jostle with each other for food. Some of them fly to their safe perches or nests on the trees after collecting their mouthfuls.

The peacock comes with an air of non-challance, walks slowly to the crowd and stands there like a Gulliver among the Lilliputians. It selects its food carefully and then waits for its lady. When both are satisfied the male spreads its colourful wings and dances in front of its fiancée or spouse.

This regalia is a spectacular sight but the birds - busy in gathering food - take no note of the peacock's vainglorious flamboyance.

The squirrels though not birds, of course, distinguished by stripes on their backs and fluffy tails do their job with utter concentration. Picking the bread pieces they adopt a sitting posture with a slight stoop and nibble at food with utmost skill and speed. They are the only ones who climb the trees at the slightest threat from others. But if you woo them with patience they can even dine with you on your palms.

The mynahs are the most gentle of them all. Walking slowly and unperturbed they never approach the food layout with a look of greed. Satisfied with whatever they can grab, they fly away leaving the field open to the crows.

Even doves are a gentle lot. Never joining the fray --- they wait for the unlawful assembly to disperse and have whatever is left behind.

The crows are most audacious and jealous of birds. Their fellow feeling is at their best when diving for food. They come in hoards. Quite intolerant of others. Once a parrot attempted to fly away with a piece of bread, the crow caught its feather in its beak and succeeded in grounding it.

Occasionally an eagle drops in as an oddity in this gathering not for grains but just to quench its thirst from the water pot shared by other birds

It is almost a daily sight, especially in winter when this diversity presents a rare sight of unity.

The Tribune, 13th December 2011

Death of Innocence

Everyday "the cock with his lively din scatters the darkness" and heralds the morn. On one such morning the slumbering village 'Tijara' was slowly waking to a life of diurnal activity.

A dainty little chicken was strutting along with its flock towards the haystacks. An easy prey to dogs and cats, it strayed from the brood the mother hen was leading. In a sudden spurt of delight it started frolicking with abandon being absolutely unmindful of the dangers to his life lurking in the mud street of the village.

Perhaps the chicken had come of age and the thought spurred him to be on his own. But his delight and his independence were suddenly cut short when Zahid's tractor which he was driving to his fields crushed it to its bones. The accident rudely shattered the peace of sleepy hamlet 'Tijara'.

For the inhabitants around the 'place of occurrence' the accident aroused their anger reminiscent of road-rages of metro-towns. In their fury they attacked Zahid to death and burnt his tractor. The Meos, burly members of his community attacked his killers with vengeance. In their frenzy they also torched the huts of some innocent villagers.

When communal passions rose high, human feelings touched their lowest. None cared for Zahid or his mother's grief, much less for the bird or the pain of the hen. Both were innocent. Both were untouched by any communal virus.

This eruption of communal violence could be controlled only when police arrived with lathis and guns. More blood was shed and large number of men from the two feuding communities were arrested.

A peace committee, ex-gratia grants to the victims - the usual standardised drill that follows all communal violence, were announced. Communal harmony returned in the guise of calm that was restored at a heavy cost.

A post event analysis - an inevitable exercise in getting wiser after the event concluded: if only the chicken could fly away or Zahid could apply brakes firmly, the tragedy could have been averted. The bird and the driver became victims of their own follies!

"Manas ki jaat sabhe ake pahachanvo" (all human beings are one) said the Guru. Is communal peace so unpredictable that - whenever it is disturbed - it is restored only with bullets. Village Tijara's folks were so intolerant that they took the life of a tractor driver to avenge the death of a chicken and were so vengeful that they rendered many an innocent resident homeless.

Who should be blamed? Not the hen that hatched the chicken. Not Zahid's mother who begat him.

What should we bemoan? Death of the chicken or death of Zahid or violation of human rights or breach of communal peace. All, but, above all, death of innocence.

The Tribune, 19th May 2011

Dhabhas in Academia

The 'Dhabas' are the favourite spots of the tired truckies. But these old world restaurants are now firmly flourishing in the academic environs of Universities as well relieving stress and tensions of the young minds. Steaming sweet tea, lusty parathas and fried pakoras are the well known items on their menu.

'Ramdhan Ka Dhaba' in my Alma Mater, Kurukshetra University, set up on the bank of a canal running through the campus was the refuge of all hostlers. Not more than a thick thatch cover resting on low brick walls, string charpoys spread out in the open were all the trappings that it had. It functioned overtime during examinations when Shakespeare and Dickens were discussed on charpoys and wooden stools. "To be or not to be" was every examinee's dilemma besides Hamlet's. But what comforted the disturbed souls was the optimism of Micawber of David Copperfield: 'something will turn up'.

Away from class rooms the dhaba was both a refuge and an academy where dialogues among the pupils in the manner of Plato's Academy "contrasted the impact of written works with that of the contact of living minds".

The dreariness of the dhaba used to occasionally liven up when the inmates of the girls hostel passed by it, some looking askance, a few - placed in the predicament as ours - exchanged smiles and some notes but most others ignored us. The canal served as a 'Lakshman Rekha'.

Exams over, we walked into an uncertain future. It was not just the hostel, the class room and the library that we missed, but 'Ramdhan-Ka-Dhaba' the most. Leaving it behind with the canal flowing quietly was a wrench.

Then came the convocation to unite us once again. With degrees in hand, we all tramped to the dhaba in our robes. No one was better pleased to see us than Ramdhan silently rejoicing in his own contribution. After obtaining degrees earning livelihood was uppermost in our minds. But Ramdhan had his own convocational advice, quite in tune with Micawber's advice to young David Copperfield: "Gist of life: your income 20 shillings, expenses 19, result happiness; your income 20 shillings, expenses 21, result misery".

'Ganga Dhaba' in Jawaharlal Nehru University is a quaint mixture of stone age and modernity. No charpoys, no stools. Only rocks and rocks - of varied

sizes - under the trees double as its furniture. Bristling with the ideas discussing almost everything under the sun from the 'left' to the 'right', farmer's suicides to rising GDP, the young academicians - boys and girls, both - mix well in this sylvan setting.

The Dhaba stands out as the only 'restaurant' which its young entrepreneurs Sushil and Anil run at night to help the 'night birds' who study the whole night recharge themselves with its heady concoctions. If the JNU is hailed as an intellectual workshop, Ganga Dhaba should be remembered for fighting globalization by catering to the needs of Aam-admi i.e. food and shelter, albeit temporarily.

The Tribune, 2nd April 2011

Face To Face with Lenin

The world knows Lenin as the greatest revolutionary. He heralded Bolshevik revolution in Russia when a salvo was fired from the ship 'Avrova', now harboured in St. Petersburg. My visit to Moscow provided me an exciting prospect of seeing Lenin 'face to face' in his Mausoleum.

Imposing walls of Kremlin, river Moscova frozen in patches, grand Red Square, Bolshoi Theatre a little distance away, Russian soldiers, wrapped in long winter coats - is the ambience that surrounds the Mausoleum. Wide roads of Moscow with stately buildings on either side all add to the unique position that this city enjoys as one of the best capital cities in the world.

For me it was an heroic effort to wait in the queue for the ticket. I got the real feel of Moscow winter and snow. The snow did not bother so much as the wind which pushed the chill to the bones. For a person not used to such a weather, both thinking and movement get immobilised. The Mausoleum outside the Kremlin wall facing the Red Square is a featureless piece of architecture, totally 'unadorned' holding in its deep, dark, underground womb "one of the chosen company of World's immortals,".

Head without any cover, a cautious, noiseless walk down the dark layers of steps, took me to the glass casket kept on a raised rectangular platform high enough to afford the visitors a full view of Lenin's body. The body is covered almost up to the chest in a thick satin cloth, leaving only his face, his hands, and head visible. Is it because these were the parts of his persona that played the prime role in heralding the Bolshevik revolution and carrying it forward!

A remarkably unlined face with shining Russian complexion made radiant by the light focused on it fixes your gaze on the visage of this "beloved comrade." The face is exactly one has seen in Lenin's pictures with a tuft of hair donning his chin, the silky growth that fringes his upper lip, his big eyes, known for being "penetrating and detecting the moods of the masses" were closed under sharp, well formed eye brows, his huge head, its broad front - a sculptor's delight - holds you in awe of this great revolutionary.

All the visible features engage you instantaneously: - a sharp nose suggesting Lenin's extraordinary intellect, hands so delicate and manicured suggest a man of sensitivity and refinement. His right hand looked as though half-clenched holding his thumb slightly inside under his fingers, conveying his

inflexible determination to lead and liberate workers from the shackles of a miserable life and rid them of exploitation and poverty they have been suffering under the Tsars.

The collars of his shirt appear well tailored. A spotted tie, the cuff ends and his jacket sleeves give an impression that he dressed well. What is missing - or not visible - is his inevitable waistcoat. In fact, what you get to see most is his huge bald head. Perhaps only such a head could hold the mighty turbulence and turmoil it went through before and during the Revolution. The hair around his baldness is silky, scanty and brownish.

Seeing only this bit of Lenin there is no end to guessing what kind of a man he was. His friend Gorky describes him a humane person. He was fond of playing chess, loved music and always laughed loudly. Here in a beautiful glass casket, a rare serenity resting on his face, it appeared to me he was in deep thought or meditation over "what has happened to my revolution, what has happened to communism"!

The Tribune, 2nd May 2012

Faux-pas and Guffaws

Faux-pas and Guffaws. Are they slip of the tongue, failing eyesight or ageing state of mind?

Humans are all given to memory 'let-downs' either as result of age or excitement or both. Pandit Nehru handed over an empty envelope to Lord Mountbatten which was supposed to contain names of those, who were to be sworn in as ministers of Independent India's first cabinet. Such lapses do occur in the routine course of one's life.

In the mid 60s the hot international issue for discussions in diplomatic circles used to be secessionist African province of Katanga in the Congo. President Mobutu staked his claim to Katanga. Prof. Gailberth, the US Ambassador has observed that at times in the cocktails circles the inebriated diplomats often described Katanga as the man and Mobutu as the province.

A celebrated advocate, forgetting his client, started giving arguments favourable to the accused. When checked by the court, the advocate displayed rare presence of mind and said, "My Lord, I was putting up the likely defence of the accused before arguing for my client against these possible attacks".

Krishna Menon, India's most valuable speaker in the UN made a history of sorts when he spoke for 8 hours in the Security Council defending India's position on Kashmir. It is said of him that he used to take sleeping pills at night to induce sleep and 'wake-up' pills to stay awake during the day, especially, in the UN. Once he took the pills in the reverse order and result was guffaws that made international news.

Speaking from a prepared text, especially, in the hallowed halls of the UN demands a command performance. What matters eminently is your capacity to see and read. Critical role of mind and memory --- if suspended -- either through jet lags or subdued by age can be disastrous and if there is none nearby to shake you up from your stupor, you might end up delivering a soliloquy of unknown authorship.

Critical faculties cannot be allowed to desert you in an international arena where you jostle up to advance your country's position on a burning international issue.

Serious business like joining a debate in Parliament or arguing in the UN

Security Council is studiously rehearsed. Think of Winston Churchill and his war speeches in public and Parliament. Never did he utter a word which he had not rehearsed. And he was too proud to own up even a single word not his own. Pandit Nehru had that rare richness of mind and eloquence that he could speak extempore both in Parliament and on international fora on a range of subjects with aplomb and effect.

Some serious minded persons are known to take their memory lapses --- even if temporary --- very seriously. A judge of the High Court of Bangalore took a wrong turn while driving to the Court. Perhaps, either due to a memory letdown or mind too preoccupied with court work. But he did no course correction to reach the High Court. Instead, he returned home and resigned!

Hindustan Times, 1st March 2011

'G'-nib

Just as a '303 rifle' was to a soldier learning to fight, a 'G' nib was to a pupil learning to write English alphabets.

Unlike learning Urdu or Devnagiri scripts which could be written on ground with your index finger - as it was in rural schools - before starting to use 'takhti' (wooden board), it was the 'G' nib which was the first and foremost tool for the beginners in English. Holding it firmly between the index finger and the thumb with the firm support of the middle finger, the holder with its pointed nib moved on the 'four-line' notebook specially made for the English alphabet.

The nib was made of metal with a capillary channel mounted on a holder often made of wood with its trademark 'G' engraved on its back.

The 'G' nib played its magic in drawing the contours of alphabets, with an emphasis here, light touch there flowing smoothly to make a perfect figure.

These alphabets enjoyed a certain hierarchy in the script when written with 'G' nib. An example: 'a' occupied a humble position in the middle two lines, 'b' rose from the third line to touch the top-most. Only 'f' and 'p' enjoyed an unparalleled status rising like mini towers from the bottom to the top while 'g' and 'z' came down from the second-line to the bottom.

Ancient Indians were the first to use pen. A bronze nib was found in the ruins of Pompeii also. But metal pen was first patented in 1803. Its utility ousted the quill pens being in use from the days of the ancient Egyptians.

The schoolteacher was the master of the art of teaching the use of 'G' nibs. How to dip it in the ink-pot, how to achieve the right grip, where to apply pressure on the nib and when to use it with ease for not only making letters, but also achieving refinement in calligraphy was the craft he learnt over the years.

The young students often failed to use the holder as deftly as the master was adept at teaching its use. Often they got vicious raps on their knuckles for being slow in learning the skill.

But gradually their skills improved and the students earned a degree of freedom to use fountain pens in higher classes, particularly, at the time of

final examinations. They were also permitted to write on notebooks with single lines.

'G' nib, though a schoolmate of the reed-pen ('kalam') was a class apart as it could be used only on special notebooks while reed-pens operated on wooden-boards. Both performed with distinction, but one could not be substituted for the other.

Now reed-pens, quill-pens and dip-pens -'G' nib included --- have become part of the old generation which has been ousted by fountain pens, ball-points and markers of several different pedigrees like 'Mont blanc', 'Waterman', 'Parkers', 'Shafer' and what not. Old-timers remain nostalgic about the G-nib and believe that the current tools only write the script but fail to "paint the voice" which Voltair thought the art of writing was all about.

The Tribune, 2nd December 2010

Journey of a Road

Travelling from New Delhi to Chandigarh by Shatabdi Express the other day my mind and eyes remained fixed on GT road that runs almost parallel to rail line till Ambala.

Sher Shah Suri built the road in 16th century and called it Sadak-e-Azam. Only public way that links India's present to its past and connects the eastern region to the western. Its precursor is said to be the road Chandregupta Maurya built from Taxila to Patliputra to link India's trade with the Hellenic world.

Sher Shah had defeated Humayun in a battle and banished him from India. Paradoxically, this same road, later, served Humayun to re-enter India from his Persian exile and re-establish the Mughal dynasty.

Dotted with 'Kos' minars, and Caravan sarais Sadak-e-Azam provided shelter to travellers and served as the first postal communication system. Caravan sarais have now become extinct but 'Kos' minars' are extant. However, modernity has asserted itself. This life-line is now dotted with fast-food joints, motels and tourist spots and adorned by signages and traffic warnings.

Route to invaders and empire builders, it has also served folks living in the plains and in the rugged valleys it slices through. Caravans of traders, thugs and plunderers have thrived on it, invaders and the pilgrims have walked on it. It is now a smooth purveyor of cars and Cadillacs. But keeping company with carts and camels still, this Milky Way on earth has not broken with the past.

Farid - Sher Shah Suri- perhaps, never envisioned that two of the most transformative systems he introduced in India -- Sadak-e-Azam and Rupiah- would revolutionise communication and currency. Today both are serving the nation like nothing else.

History has traversed on this road with gigantic steps and thundering noises. The Mughals led their campaigns to Peshawar and beyond. Serving all the Mughals in their glory, it was also a witness to their downfall. The British troops moved from Bengal to North-Indian plains in 1857 and the British reinforcements marched on it from Lahore and Ambala Cantonments. Capture of Bahadurshah Zafar and his subsequent exile signalled the fall of

Mughal Empire and the rise of British domination. Sadak-e-Azam was rechristened as Grand Trunk Road. Another mile stone in its journey.

In 1947 when India was partitioned, there was unprecedented scale of murder, misery and migration of millions of people. The railways and this road served the people to seek shelter, safety and a new life. This was its most painful signpost.

Travelling on this highway is like being a witness to the vignettes, pageantries and a spectacle of the unity and diversity of India, union of the past with the contemporary and a window to the future. Aptly it has been described not as a national highway but a national monument. In Kipling's words "GT Road is a wonderful spectacle. It runs straight bearing without crowding India's traffic for 1500 miles --- such a river of life as no where exists in the world".

The Tribune, 6th April 2010

Milk of Kindness - Mother of all Mothers

Paulo Coelho says "..... it is important to remind oneself of the forgotten word kindness". A village on Rajasthan border wrote its own chapter of kindness. Its womenfolk changed the destiny of a small boy Mohan. His body, just a bundle of bones, covered in scanty flesh, had dim chances of growth and survival.

Time ticked by. The boy did not fill out. Devoutly religious, his parents first rang the temples bells to invoke God's benediction, prayed at 'Dargahs', Gurudwaras and sought blessings of 'Pirs' and Sadhus.

Village life is generally driven by faith and tradition. Villagers seek relief for their maladies in the geographic bounds of their rural habitat. Rarely their instincts impel them to reach out to the urban professionals. In his childhood, my younger brother suffered a fracture of arm from a fall from the roof while flying a kite. It was the 'village orthopaedician' of hereditary wisdom who was preferred and approached. He put two round pieces of baked mud tightly on the broken spot. Miraculously, the fracture healed, but it has left a scar forever.

Daily being lifted by his arms or carried on father's shoulders, Mohan's sight tormented his loving parents to no end. Faith healing failed. Allopathy was also of no avail. Mohan hardly registered any improvement but remarkably his life and soul remained on his side.

This time the parents went beyond the environs of their own village to a 'Vaid'. A wizened old person, highly endowed with native wisdom, diagnosed the emaciated child in one glance and prescribed, "Insufficient mothers' milk. If his mother does not have it, go to others". The father told his peers about the Vaid's prescription. In an instant and rare decision of collective kindness, the village elders ordained that the child would be fed by the village ladies who were feeding their own babes. Most willingly, the young mothers took to Mohan as one of their own and gave him of their milk to his hearts' content. Slowly Mohan's physique started to bloom and his looks transformed. Able in mind and in body he became. Close to his hundred years, the angelic 'Vaid' has lived to see his miracle.

After completing his School education, Mohan moved to College and then to the University and finally to occupying a prestigious post in the

Government. One who was unable to walk to school, jogs today as a robust youth. Handsome Mohan, humbled by the kindness of his village folks, proudly declares that the elixir they gave him runs through his veins and he belongs to all of them and not just to his parents.

Recalling Mohan's story, lines of Roseane Murray's poem* aptly come to mind;

"The soul is invisible

The angel is invisible.....

With kindness.....

You can guess where the angel is

You can change the world"

Truly, the story holds the truth : milk of kindness is the mother of all mothers.

The Tribune, 24th June 2010

Musings in Space

As the plane lifted itself from Delhi airport and soared high, a feeling of cruising in the space gripped me. The dust rising from India's planes blocked the view of the land below till a blue sky started opening vistas of varying moods of the skyscape.

The air journey from New Delhi to Frankfurt - covers a number of countries in its sky lanes. Names of a few cities and countries like Afghanistan, Russia, Vienna and Frankfurt have kept me glued to the window.

Afghanistan's ranges of mountains, so rugged, so barren appear to have been made by nature in a diabolical frame of mind. Looking menacingly upward with deep gorges that seemed faint and fear- some, these mountains are almost unsurpassable.

A long jump into the past made me reflect how could these invincible mountains allow the arrogant empire builder, Alexander enter India in 326 BC; how could they make it possible for cruel Nadir Shah to invade India, plunder Delhi and escape with enormous wealth including the famous peacock throne, leaving behind an unspeakable trail of mayhem. Again, how haughty Babar - a run-away princeling from his own native land - found his way into the Indian plains and lay the foundation of a long lasting empire.

Suddenly, this mood gives way to a vast expanse of clouds. The plane is flying over Russia. Having never been there before, I strained hard to get a glimpse of the landscape but the vast expanse of clouds totally blocked the view like the famous 'iron curtain'.

Next the plane entered the space of countries less laden with snow. Caravans of clouds moving majestically in the direction of the unknown destinations looked like enormous piles of cotton spun by the invisible spinner above.

Sometimes' the plane charges into the fortresses of clouds in its flight path, gets engulfed in their thick mass and sends panic waves into the hearts of unsuspecting passengers when it shakes while combating the clouds.

Yet another different view emerges: this time of European landscape. It is the month of March; Europe is on the threshold of spring. Snow capped mountains slowly coming to bloom in their declivities reaching out to rivers shining in the sun, the beauty of geometrically demarcated fields - as it were - adds to this unique canvas.

Drinking deep of this fascinating spectacle, I couldn't help reflecting again how could two world wars were fought in this vast arena of beautiful landscapes; why could not nature advise and hold Hitler from pogroms of the Jews and how could vast armies of the allied forces land here to kill and die.

I was far in to the space cut off from the realities of the ground - a temporary relief from the stress of unrelieved routine officialdom. But then came the final announcement from the pilot; the descent for Frankfurt has started. I could feel the slow nose dive and release of wheels from the undercarriage of the plane. Slowly and steadily the plane touched the runway and let loose a thunderous noise, different from its almost motionless and quiet flight in the space.

Different skylscapes, fleeting glimpses of varying landscapes from an altitude providing an over view of the past and the present, both delightful and depressing are what this flight journey turned out to be.

As the plane came to a slow halt and aligned itself to the aerobridge, I walked out thinking why the world is not so one and so peaceful on the planet earth as it appears from the outer space!

The Tribune, 13th April 2012

Serpent Bar

Palais des Nations in Geneva is the Mecca of international conferences. In its salles delegates deliberate on covenants, conventions and treaties to promote international peace, understanding and protect human rights. I was there recently to participate in the International Coordinating Committee on human rights.

Much heat and passion are generated over the draft resolutions. Wranglings lead to conflicts. Those accustomed to making verbal sallies succeed in confounding the issues, blurring the text and their contents as well. Opinions and counter opinions become a nightmare for the interpreters -- making it, at times difficult for them to render intelligible translations.

When decisions elude and resolutions become difficult to pass, lobbying is the only answer. But the conference hall is not its true arena. It is best conducted in the Serpent Bar just outside the hall.

The Bar is an oblong space overlooking a serene garden with luxuriant grass dotted with sculptures depicting pain and achievements of humanity, trees in slow-bloom suggesting oncoming of spring, and glimpsing Lake Geneva in the beyond. It is here that the warring delegates repair to. Chairs resting on legs that look like slithering snakes cover the entire floor space. Aroma of coffee, smell of beer froth "winking at the brims", petite belles -- all in the business of the Conference - throwing 'Bon jour', 'Bon journee', 'Merci' with captivating smiles at the slightest eye-contact is the ambience that Serpent Bar offers like no other.

Here the delegates mingle without ear-phones, communicate without interpreters, tempers that soared high inside the hall cool down, clarity of thought descends in a flash. Lobbying is at its best in this setting. Delegates make full use of Mobiles for back-home consultations hold each others hands -- especially when interlocutors happen to be boue feminas -- exuberate understanding of issues which defied solutions inside the salle. Decisions suddenly appear within reach.

The sartorial elegance of dark suits--an unwritten dress code of international conferences - is in full display as a symbol of international solidarity. Unique mosaic of different cultures, races, religions and languages that throng the Bar plays its own role in promoting international understanding.

The delegates return to the conference hall with areas of misunderstanding 'considerably narrowed down', and resume business with earphones and country-plates in front. Perfect contrast to the informal milieu of the Bar.

The bonds developed and the understanding reached in the Bar become quite evident. Things unsaid become eloquent. The language of discourse is tempered with caution. Resolutions are adopted with thumping applause. And the hammer comes down on the conference. But the event cannot be said to be over without the last visit to Serpent Bar where departing delegates exchange business cards, make professions of mutual understanding and say 'aure voirs' with assurances of co-operation. While flying back home, I remained wondering whether it was the salles of Palais des Nations or its Serpent Bar which took the cake. But, indeed, it is difficult to imagine one without the other.

The Tribune, 24th April 2010

Song of Old Age

The district town of Rewari in Haryana with its broad roads and row of flats is fast emerging from the shadows of its rural past to catch up with its neighbouring cousin Gurgaon. A function organised by NHRC and Janta Kalyan Samiti to discuss the problems of the Senior Citizens was an event first of its kind there.

It was a function meant to advise the young and not so young about protecting the rights of the old and very old. Chaaya Devi, aged 102 years, led a troupe of folk singers to sing the theme song:

"Ram budhapa mat dena (Oh God, don't give old age)

Je budhapa dena chaho (If old age is a must)

Veer mard ka sath diyo (Give company of a brave man)

Shravan jaisa lal diyo (a son like Shravan)

Muthi mein dhan diyo (Money in hand)

Gode mei jaan diyo (Strength in the knees)

Swarg lok mein baas diyo (abode in heaven) "

Some experts on health care and medicine gave impressive presentations to this audience. Government representatives spoke about the virtues of the new legislation, Maintenance and Welfare of Parents and Senior Citizens Act, 2007, old age schemes and the NGOs dwelt on their own activities and programmes for the senior citizens. The young DC, SP and the pretty lady ADC talked about what the District Administration could do for them. But Chayya Devi's rondo of native wisdom rendered in her bird like tone epitomised all that State and the society need to do for the elderly persons.

All the elderly persons with faces wizened with age but chiselled in shape sitting unbent, men with their heads swathed in turbans formed an assembly of an age receding into the past and contrasting with the generation called modern.

Their life stories tell a different social milieu. Simple life-styles in large joint families and abiding social bonds they never tire of recounting. Strength of

their bodies was bread of millet, milk and ghee, and spice of their life the 'addas' and 'hukkas' under well shaded trees. Never would they imagine a generation different from theirs that would need ponderous exhortations and legislations to make the present generation to look after them.

Raj Rani, 103 years old, happy to be into midst of her age group, though, not knowing all that we spoke in a lingo which was not hers, sat all through. She had her own lesson in longevity to impart: happy life in the midst of her progeny and regular diet of milk, ghee and lassi. Small in height, with a cheerful disposition, Raj Rani rose to welcome me with a shawl. It was my delight to put the shawl back on her shoulders.

Energy and freshness of the youth can make a world of difference to the world of the elderly. A caring society and a welfare state can give them an 'abode of heaven', here on this earth itself which Chayya Devi longed for in her song. Their experience is a treasure and their wisdom a guide. Saying nothing more than this I took leave of this rare assembly wishing them a long, healthy and happy life.

The Tribune, 18th February 2011

Three Liberators: The Mahatma, Martin & Mandela

Nothing has tormented humanity more than caste, colour and colonialism along with their closest ally, poverty. Repression of the human urge to be treated justly and enjoy one's freedom has scarred life of millions over the centuries.

Three men, Mahatma Gandhi, Martin Luther King and Nelson Mandela who saw and suffered these scourges, were also the men who fought them as mission of their lives. They never met each other but at crucial period of 20th century they were contemporaries and were deeply linked to each other in their thoughts and actions. They shared the same vision, their struggle had the same intensity, and they had a common goal : to deliver their people from bondage, terror of racism and restore to them the worth of their lives.

A news item in Natal about the bill to disenfranchise Indians, a fine of \$10 imposed on Rosa Parks, a black girl from Alabama, for occupying seat reserved for whites were moments of truth for Gandhi and King. For Mandela it was his "anger over accumulation of thousands of slights and indignities" that produced in him "a rebelliousness to fight the system that curtailed not just my freedom but of every one who looked like I did". It was their extraordinary grasp that they could divine what these developments portended for the future of their people. Historic movements like, Satyagraha, Civil Resistance and Campaign of Defiance that these men launched have their origin in these events.

Much ahead of Universal Declaration of Human Rights Gandhiji's Satyagraha encompassed his quest for equality, freedom from bondage and discrimination. He defied the bill to disenfranchise Indians. He was arrested and put in Volkrust jail. But ultimately he succeeded. The legislation was vetoed by the colonial office in London.

Returning to India, Gandhiji saw what misery the repressive colonial rule had wrought on India's masses. He defied it and Indian people joined him in his defiance. He rejected stratified customs and orthodox religious practices; untouchability and caste system being most repugnant to his conscience. Civil disobedience, facing trials, walking into and out of prisons and fasts unto death became the stuff of his life. Gandhi led his people by personal example and his message was simple "do or die".

His victory came when foreign rule ended in 1947 India got its freedom that promised all that he fought for but his own life also came to an end when he fell to an assassin's bullet in January 1948.

King's commandment to his volunteers was also simple: "Pray daily to be used by God in order that all men be free". That all human life is inter-related became integral to his thought and action. In his ethical framework he was deeply influenced by Gandhi's principle that 'man's action must be pure and justify the end'. The bus boycott in Alabama, the Negro revolution and Peaceful march to Washington that he led became the engines of change for the black Americans.

Arrested and physically assaulted several times, Martin was assassinated on April 4, 1968 in Tennessee when he was to lead a protest march in sympathy with garbage workers.

Today the black Americans have right to vote. Civil Rights Act of 1964 made discrimination illegal and opened a "super highway" to justice. Martin's quest for civil rights was fulfilled, though posthumously, when Obama was elected as the first black President of America. It is Martin Luther's famous declaration : I have a 'dream' come true.

Starting from tending sheep and calves in the fields of Mvezo, Mandela became "the embodiment of African nationalism" and waged a historic war against apartheid which had been resting on an "armoury of discriminatory laws" that denied the black majority all that human dignity entitles them to.

African National Congress and Mandela launched a massive 'Campaign of Defiance' reminiscent of Gandhiji's Satyagraha whom he described as 'the archetypal anti-colonial revolutionary'. He declared, "We want equal political rights because without them our disabilities will be permanent".

Nelson Mandela was arrested. During his trial he addressed the court and said: "I hate social discrimination most intently and all its manifestations. I have cherished the ideal of a democratic, and free society in which all persons live together and with equal opportunities. It is an ideal which I hope to live for to achieve but if needs be it is an ideal for which I am prepared to die".

Sentenced to 20 years of imprisonment on Robben Island, Nelson lived to achieve the ideal for which he was prepared to die --- the end of apartheid and freedom from bondage for his people.

After three centuries of harsh rule, the power was turned to the black majority. Long struggle came to an end when he himself became South Africa's first black President. In his inaugural speech, he declared : "We have at last achieved our emancipation".

These men showed the path to liberation transcending limitations imposed by man on man. They understood that dignity of human life cannot be enjoyed if all rights man is entitled to are not restored to him.

It was a unique warfare in which oppressor was not an enemy. "I consider no one as my enemy", Gandhi said. It was Martin's belief that "Negro must love the white man, because the white man needs his love to remove his tensions, insecurities and fears". Mandela said that his "hunger for freedom for my own people became the hunger for freedom for all people white and black".

Truly history knows no other trio of men than the Mahatma, Martin and Mandela whom mankind must pay their highest homage today on the World Human Rights Day.

The Indian Express, 10th December 2010

Valley of Happiness

A journey by road from Gangtok to Yumthang that snakes through high mountains, spanning gurgling rivers giving recurring glimpses of snow capped mountains took me first to Chungthang, Lachung and finally to Yumthang --- all the beauty spots of North Sikkim.

I drove to these places for the alluring prospect of seeing rhododendron flowers, Dopka nomads grazing their yaks, the sulphur spring and the fascinating range of Yumthang glaciers.

Yumthang valley bordering on Tibet opens a vista before you. Its expanse of undulated green fields, rimmed on either side by an unending range of glaciers, red rhododendron flowers, herds of black hirsute yaks --- contrasting with the whiteness of the glaciers is a perfect mosaic of nature's beauty that draws you to this heavenly spot. Nature has planted a sulphur spring at a serene and solitary spot --- Yumeysamdong. The spring grips you in the warmth of its sulphurous water and leaves a tan which fades slowly.

The humans that inhabit this valley are not much accustomed to mixing with the outsiders from far away towns and cities. Steeped in Buddhism, holding prayer wheels in their hands, robed in the most colourful dresses adorned with jewellery of Tibetan beads, high on their famed beverage "Swe chhang", sipped from 'toonghas', the bamboo containers, growing rice, corn and millets, breeding goats and yaks, they live in this valley which is a world of their own.

The men have striking features, long flowing manes, tall, robust physiques cutting figures like those of Tibetan warriors of yore. The women wearing exotic hats and elegant Bakhus, all figures of exquisite grace and form, ruddy cheeks of the children, toothless smile of tiny tots all are there to make Yumthang a valley of human splendour and abode of beauty.

I met them in a field which was cleared for the occasion. Pipons, the local chiefs from Lama community welcomed me with traditional courtesy, presented me 'khadas (scarf), loaded me with vegetables, eggs, fruits and the inevitable 'Chhang' which, as mark of respect to my hosts, I sipped. I made some humble offerings to greet them. The bonhomie that was generated was more elevating than the spirit that was consumed.

In this setting, the sight of a few policemen, myself included, looked odd and made me think whether the peaceable people of Yumthang need police at all. Perhaps they do not. Nor, perhaps, any other form of governance either. They are governed by their own centuries old custom 'Dzumsa' which regulates their lives, teaches them how to settle their disputes and bond with each other and live a life of harmony and religion which is Buddhism. I could communicate with them with the help of my PSO who could speak in their Tibetan dialect. Communication was deficient but understanding was near perfect. They asked for nothing. Nature and their custom have given them all that they need.

Religion guides their path, Buddha enlightens their souls, the rivers, snows and yaks bring happiness to these folks of Yumthang.

How happy is this valley.

The Tribune, 30th August 2011

Watching the Night Sky

"Few of us spend much time wondering why the nature is the way it is", observes Carl Sagan, the famous astro-physicist. Going back into my childhood days I recollect that watching the night-sky and counting the stars from their 'charpoys' on the roof-tops was an obsessive pass-time of all the villagers. The pole star, the Ursa Major, the Akash Ganga, Mars and the Saturn were the objects around which countless mythological stories were woven.

'Akash Ganga', the Milky Way though hazy in view, was clearly discernable because of massive cluster of stars that stretch across the sky. The elders said it was the pathway to heaven for those who followed a righteous path on earth.

Just as the pole star helped the navigators on the vast oceans find their direction, some stars were of great help to the farmers. Their position in the sky made them guess when to get up to yolk their bullocks for going to the fields. These were their dependable watch clocks for they knew nothing of wristwatches or time clocks then.

None could satisfy the curiosity of the children how young Dhruv could become a pole star and that his mother Suniti stays with him close by. Equally mystifying was the belief that the celestial canopy was the abode of the dead who become stars after their death. Inquisitiveness about the stars and the planets evoked the only answer: "Us ki maya woh hi jaane" (God alone understands mystery of his creation).

Weary of the day's toil and used to starting their day early, all discussions about the mysteries of the stellar space ceased as 'gentle sleep', 'nature's soft nurse' descended from the heavenly splendour with opiate effect.

I some times used to remain awake for long hours trying to figure out what the sky and stars really were. There was no answer how far they were and why they were there. Nothing was more awe-inspiring than the shooting star. Its bright trail illuminated the entire sky. The elders used to spit on the roof to ward off its evil effect as they believed that someone big had passed away.

Nothing enthralled me more than the complete dominance of the sky by the moon making even the bright stars look dim and the earth cool with its sheen of moonlight. Stories about the moon were fascinating. That it travels

on a chariot like the sun was a common belief. The shadow on the moon's surface was commonly believed to be silhouette of an old lady --- perhaps moon's mother - spinning at her wheel. Some thought it was just a rabbit enjoying the moonlight.

Man's landing on the moon, space explorations and what Aryabhat, Copernicus and Galileo have said about the Sun and the earth have made no difference to the wondrously beautiful that the night sky remains. It continues to cast its spell and till either astronomy or mythology can fully fathom the world of universe, it will remain baffling to the inquisitive and the ignorant.

The Tribune, 22nd October 2011

Words that Rule

"Books rule the world", said Voltaire. So is true of words. It was in Voltaire's time that the French Revolution gave the famous words "Liberty, fraternity and equality" which have ruled generations that followed and created ferment that changed the destiny of French nation and shaped it for many others.

Winston Churchill was once asked, "What were the most powerful weapons you used to win the war". His answer was "words, words and words". His speeches have made the history of World War unforgettable: "we shall fight on the seas and on oceans,.... we shall fight on the beaches, we shall fight in the streets and fields..... we shall never surrender". When the British morale was at its lowest ebb, these words lifted the mood of the nation and stirred Englishmen to face the bombardments that Hitler was hurling on England.

Gandhiji's call "do or die," breathed a new life into the people who had been groaning under the weight of centuries of foreign subjugation. These simple words woke up people from their slumber who gave a fight which became historic for not having to use violence or weapons. Nothing better could make the people grasp the true meaning of the freedom struggle than Lokmanya's words "Freedom is our birth right". These shibboleths rallied the nation and altered the course of national movement.

And when the freedom dawned nothing could describe it better than Pandit Nehru's 'Tryst with Destiny' speech: "When the world sleeps, India will awake to life and freedom". So moving. And so true. History of India's struggle for freedom can never be complete without this speech.

China with its long history of Taoism went through metamorphoses with Mao Tse Tung's rallying cry "Power flows from the barrel of the gun". With these words a new nation was born. A new ism emerged which continues to influence.

Soviet Union, in the last quarter of the twentieth century was rocked by two cataclysmic words ---- 'perestroika' and 'glasnost'. Used by Mikhail Gorbachev to restructure Soviet Union, these words unleashed such transformative forces that brought down the Soviet monolith.

The short period of Lal Bahadur Shastri was made historic not just by India's victory in war with Pakistan, but also for the slogan 'Jai Jawan, Jai Kisan' which rallied the nation to focus on two pillars of India's strength. Words 'Garibi Hatao' ruled Indira Gandhi's election campaign and thereafter set a new goal for nation building.

And the latest in word-power are Obama's magic words 'Yes we can' that inspired his election campaign. These words put his oratory on everyone's lips and him in the White House.

Current phase of history will not be remembered by the vogue words that dominate its idiom and phraseologies. Advent of globalisation spawned a new lexicon which has pushed out the language of simplicity and elegant usages. Commercialise and management coinages are the language of power and influence. 'Data based architecture', 'strategic thinking', 'coordination mechanism', 'paradigm shift', 'macro and micro levels', 'multi-dimensional approach' are some words which are the new elite of the vocabulary. They dominate all debate and intrude into all discourses on serious issues. For these word-conductors, history holds no lessons, thesaurus is of no use. They trek the linguistic path unmindful of the danger of falling next into pits like "honorificabilitudinitatibus" - the longest word used by Shakespeare in "Loves Labour Lost" and 'hippopotomonstro-sesquipedaliophobia' (fear of long words). Pronounce as you wish!

The Tribune, 26th February 2010

A Dose of Bacon

COUGH and cold are age-old afflictions that have defied doctors' prescriptions. A serious bout of the same gave me a dreadful night. I did not wake up wife or mother-in-law for fear of being treated to a litany of cures - lemon tea with honey, tulsi patta-ginger tea etc.

Hard to sleep, I picked up a book by Francis Bacon. In his essay "Of regimen of health", he says: "there is wisdom in this beyond the rules of physics: a man's own observation, what he finds good of and what he finds hurt of, is the best way to preserve health..."

Soon I thought of a friend - a vibrant personality - who retired as DG of a paramilitary organisation. I once asked him what he did to keep fit. He sounded quite Baconian when he said, "Staying alive, Sir, especially after retirement, is a whole-time job".

But there was no relief from cough and cold and I remained in my thinking mode. The person who comes closest to following Bacon's regimen is my father. Ninetytwo and plus, he often tells us, "there is no machine yet invented, no doctor yet born who can understand your body and mind better than you can do yourself". For him what you do is as crucial to being in good health as what you eat.

I was also reminded of an ASI of Police in Assam where I worked for long years. This self-anointed "know all", displaying greater degree of commitment to public weal than to policing, had put up a huge signboard where normally should have rested a board telling people about the police check post.

The board on display bore "An angel has descended from heaven, capable of curing everything under the sun." I discovered he could not cure a single constable of cough and cold serving in his outpost. I asked him if he had any degree or diploma in medicine. His reply totally disarmed me. He said, "for doing good to the people, sir, you do not need any degree".

Mahatma Gandhi had definite views on health. Brahmcharya and mud-poultice were his panacea for all ailments. It was a regimen impossible for a lesser mortal like me.

My coughing - loud as it was - woke up my wife. In a doleful voice, full of concern and care, she asked me if she could make me ginger tea and give me a toast with honey. I thanked her and said it was too early for tea and toast and persuaded her to go to sleep.

Then came a sudden flash like the enlightenment descending on Buddha under the Bodhisattva tree. I thought of a stalwart police officer. A human rights activist, leading a Spartan life, he possesses rare imagination and composes beautiful poems. Of the one that I heard him recite the other day, I recalled the concluding lines, "Aisi koi raat nahin jo na de kar jaye savera", meaning "there is not a night which is not followed by dawn"

I found an answer to my malady. Opening the curtains of my bedroom, I could see rays of morning sun descending in rare effulgence on the extensive lawns of our garden. I stepped out. The birds were full of mirth, frolicsome and danced in rare delight. Bacon realised this much before I did that, "it is the purest of human pleasures and the greatest refreshment to the spirit of man".

I could experience my fever vanishing and delight surging through my body. I knew I had launched myself on a path to recovery.

The Tribune, 15th December 2007

A Bit of Peshawar in Port Blair

A journey in 1933 from Peshawar to Port Blair was the most unthinkable venture for any tourism enthusiast. Though surrounded by vast blue oceans, rich in coral treasures, Port Blair was a dreaded place as 'Kala Pani'.

In the east of the subcontinent Port Blair was in stark contrast to Peshawar, in the west. Two most dissimilar places, it was difficult to imagine. North-West frontier with its landmass and difficult terrain, was inhabited by some of the most blood-feuding tribals in the world. Port Blair had its inhabitant, the peaceable aborigines, hidden in its bosom of vast forests.

Anaiulla Khan, a strapping lad of 19 years had his destiny carved out for him to be torn from the land of his fore-fathers and deported to 'Kala Pani'. Tried along with his brother for murder of their father's assassin, Anaiulla Khan admitted to have committed the vendetta - killing himself. His love for his mother made this brave heart to take the entire blame just to save his brother to be with her in her widowed loneliness.

Saved from the ultimate fate of going to the gallows, Anaiulla Khan was ordered deportation to 'Kala Pani' [for life.]

Rendered utterly penurious by struggle for survival and litigation, the mother had nothing to offer her son who was being snatched from her forever.

The grieving mother had most lovingly kept Anaiulla Khan's driving license - a metal piece and a small copy of a Holy Quoran.

Arrival at the Island from the landmass broke his heart but the holy book kept his hope alive. "Despair not of the Mercy of God, for God forgives, All sins, for He is oft-forgiving, most merciful." [Verse 530-Az-zamar No. 39.] His driving license came to his immediate relief. He was assigned the job of driving a jail van for transporting convicts.

A life of 'freedom' on the Island during day and captivity in the cellular jail at night was both blessing and bane of Anaiulla's life. He earned the reputation of a most conscientious driver who started loving the land of his new sojourn.

As years rolled on, his reputation soared. And then came his final reward. He was released from the cellular jail.

For Anaiulla it was time to forge new bonds and launch himself on a new course of life. He found a comely lass - daughter of a convict - and fell in love.

A cruel blow of fate struck him again and snatched from him a person he loved most. His wife died during birth of their third child. But this brave heart was from the land of those who never say die. He married again a girl half his age. He did not care that his second wife was a divorcee and had a two year old daughter. His father-in-law, being younger in years and looks, was often mistaken to be Anaiulla son-in-law. The highly procreative couple added 7 more to their brood of siblings making a unique family of all ages and different patrimonies.

His family became the precursor of several other families that later made the Islands, a unique human mosaic. As the cellular prison heaved out her inmates they adopted the 'Kala Pani' as their new home, married locally with brides of different religions, different languages and different customs. It is really a wonder of this Island today that in most homes, there are families of various secular hues living with most abiding human bonds.

Aniaulla Khan is one of the icons of this new cultural blend that pervades the Andaman Island.

His life story endures and is now being carried forward by his progeny lead by his charming daughter - now the curator of the tourist spot that the cellular jail has become.

When the sun and light programme resonates the walls of the jail, the voices of its inmates who lived and died there - come alive. The curator as the proud daughter of a 'convict' holds on to the driving licence and the holy Quoran as the "two most valuable assets of her life".

The Tribune, 24th March 2009

A Fearless Man of Convictions

Ashok Saikia -- Ashok to all his friends -- is no more. Much different from the bureaucratic mould that makes it difficult to distinguish one bureaucrat from another, Ashok's candour, his ebullience, speed of thought and action, transparency, charm and simplicity cast him into a different brand that runs the wheels of Government.

I first met him in Guwahati in the early-1970s at the clinic of his brother -- a well-known eye specialist. The clinic became an 'adda' -- a chatting place -- whenever Ashok was in town. Here his egregious self was at its best. Over the years and places he worked, he was ever the same Ashok, spreading his charm and wit.

The Prime Minister's Office (PMO), where Ashok worked during Mr Atal Bihari Vajpayee's term as Prime Minister, is an awesome place that wields enormous power and authority. But he did not allow the office he held to make him pompous.

His love for photography and computers was just as strong as his zest for life. In his spare time, which was rare for him, he took some stunning pictures. Among them were some memorable shots of North Block and South Block and the old city of Beijing. After retirement, he wanted to spend most of his time travelling with his camera.

He was in love with Assam, the State where he was born. It is where I have also served for a number of years. His charm and simplicity were quintessentially Assamese. Titabar, his native place, dotted with evergreen and rolling tea gardens, was the place he loved most. It was his fond desire to go there and live among the villagers as a "gaon-burrah" (an elderly wise man of the village). He could identify with village folks with natural spontaneity whether it was in Assam or in Vietnam where he worked for several years and where villagers took to him naturally and he to them and all without knowing each other's language. He has now gone to Titabar to rest there in silence forever.

His love for Assam often made him sad for he could not approve of the mindless violence going on there for years. He condemned the violence unequivocally. When SK Tiwari, a senior IAS officer, was kidnapped, Ashok's was among the lone voices that condemned the kidnapping of his colleague.

Such was his courage and conviction that while others resorted to caution, he dared.

Always unconventional in his style of work, and manner of dress, at times gruff in his stentorian voice, he could hardly conceal his love and concern for his friends and people who flocked to him for help. His commitment to rules was strong, but he was equally strong in his belief that rules have to be applied to serve the people and advance noble causes, and not stymie them.

What ultimately lingers in mind about Ashok is his cherubic face, his innocent smile and radiant skin belying the 59 years he had lived through. His friends and admirers will find it difficult to accept that he is no longer there among them.

The Pioneer, 1st January 2008

A Journey in Time and Space

AFTER a brief holiday of three days in Greece I boarded an Emirates flight for my journey back home. The grandeur of Acropolis, goddess Athena, Delphi and Sonou was dominating my imagination. Life-size sculpted figures - mostly gods and goddesses are living examples of celebration of human figures.

Having ensconced myself in perhaps the coziest seat I have ever travelled in, I transported myself to 4th/5th century B.C.

The thought of sculptors and all those who contributed their sweat and physical prowess (mostly slaves) was overwhelming as well as disturbing. They had no cranes to lift the massive rocks, no tools remotely comparable to modern day tools to chisel them into the incomparable pieces of the ancient world. But, I guess, the human mind was at its best and imagination soared at its highest. Together they could achieve what perhaps modern craftsmanship, hugely aided by machines and tools, can achieve only scarcely.

Could the Greek sculptors with their imposing figures donning togas achieve what they conceived? Was it possible without the ill-clad, starved but sturdy slaves who wrote poetry in stone and marble? Never has creativity been so inextricably accompanied by pain. History has to record the toil and nobility of concept together.

As I kept touching the wonders in marble in my imagination, my mind remained disturbed. Finally it was calmed by the thought that the slaves must have been as much in love with their works as the sculptors who conceived them.

My mind teeming with life-size statues in the temples of Greece, was suddenly pulled back into the present with a thud. The partition designed to afford privacy to passengers seating adjacent to each other suddenly collapsed and I discovered a stunning beauty with Greek features sitting beside me. I could not believe my sight that there could be someone like a Greek goddess sitting next to me in flesh and blood. I could not help asking the damsel where she was from. "Athens", she said in a manner which left a lasting impact. After a brief conversation - which was all Greek to me - my co-passenger pushed the partition board up and got lost in her privacy and sparkling wine.

I wanted to stay in my reverie. This time the airlines opened a new vista. As I pushed the button a sizeable screen came alive in front of me. It was their music channel. The music was enchanting; the singer, an ethereal beauty, singing with heavenly abandon. This beauty fully robed in Arabian dress which could be the envy of fashion designers. She was of stately height, lissom figure, husky voice, all of which can set the Arabian Sea on fire.

I felt impelled by curiosity to know all about the singing beauty. I mustered courage and hailed a charming airhostess. I insisted that she tell all about the singer and the language of her songs. I was informed that all the songs were in Arabic. I could not follow a word of it. I comforted myself with Aristotalian thought that music was the perfect art and can be enjoyed even without knowing the language. It touches the soul and uplifts the senses, I decided to enjoy the music and almost rose from my seat to join the applause that the mesmerised audience on the screen was according after each song.

When the plane landed I disembarked with the Wordsworth's lines of the Solitary Reaper singing in my ears.

"The music in my heart I bore Long after it was heard no more"

The Tribune, 13th May 2008

A Prisoner and a Liberator

A review meeting by the National Human Rights Commission on the mental health care in the western region took me to Pune. This great city has been host to many historical events. Yerwada jail where Gandhiji was lodged to undergo sentence for sedition stands as a monument to some of them.

A visit to Gandhiji's cell in this jail evoked a powerful question: how can you keep human spirit alive in a prison cell and fight for a cause. Rigours of jail life can break the resolve of lesser mortals to fight for a cause, especially if it happens to be delivering your people from bondage. Life in this jail did not dim Gandhiji's resolve nor did it diminish his courage to fight.

His magic transcended the prison walls and cast a spell on millions outside. Nicely spruced now, the cell bears no resemblance to what it was when Gandhiji occupied it.

Bapu's time in the prison elapsed with the gentle din of charkha, and reading books six hours a day. Books were his companion during day and his pillow for sleep at night.

Daily frisked for weapons this prisoner, frail in body but indomitable in spirit could not be deprived of his most powerful armoury: his Ahimsa, his Charkha, his fasts and his prayers which he used most effectively to topple the Raj and achieve Swaraj - a goal set by another inmate of Yerwada, Lokmanya Tilak.

After visiting Gandhiji in Yerwada Rajgopalachari, wrote, "India's rulers were unaware of their privilege of being custodians of a man greater than Kaiser, greater than Napoleon,greater than the biggest prisoner of war".

The visit would have remained incomplete without visiting Sassoon Hospital where he was operated for appendicitis following terrible abdominal pain in jail. This heritage building was built by David Sassoon - a Jew from Baghdad who traded in opium in China. Now this edifice is his legacy of charity.

The operation room, not significantly bigger than his prison cell, is now thoughtfully embellished by the bed he lied down on for operation and the archival documents relating to his admission in the hospital and his discharge slip.

At the time of his discharge his "very efficient English nurse with smile curling around her lips" (Gandhiji's words), told Gandhiji that he being a boycotter of foreign goods was operated by Dr Muddik, a British doctor, ministered British medicines, and given post-operation care by a British nurse and "the umbrella shading him on his way out of the hospital British too". Bapu informed her that his boycott was for the sake of cloth made by men and women in India's villages by spinning charkha. She then remarked that she might wear khadi herself !

Overcome with emotions and tears welling up in my eyes I paid my homage thus: "Wherever Gandhiji lived - whether in jail or in an ashram - it became his karmabhoomi."

While remaining in the confines of jail personally he fought for the liberation of others i.e. India. Is there any example of a prisoner being a liberator? It is only that of Bapu. Yarwada was one of his several karmaboomis wherefrom he waged a war for the freedom of India.

The Tribune, 10th August 2009

Lamas and Landslides

The Mangol war-lord Godan, grandson of Genghis Khan, was the first to acknowledge the spiritual prowess of the lamas. He invaded Tibet in 1240, burnt down monasteries, killed priests-chieftain Soton and slaughtered 500 monks and civilians. After his victory he wrote a letter to the Sakya Pandita and expressed his wish that he needed a lama to "advise my ignorant people how to conduct themselves morally and spiritually".

Known for his vast learning, Sakya Pandita instructed Godan in the teachings of the Buddha. Also, he persuaded him to refrain from throwing large number of Chinese into river to reduce population that was a threat to his rule.

Sakya Pandita accepted Godan's request and the grateful Mongol invested him with temporal authority over monasteries of central Tibet - an institution that has survived till the present times.

Next to come under the sway of lamas was Kublai Khan, son of Godan. He made Phagpa, a young lama, his imperial preceptor and agreed to prostrate himself before him. Kublai Khan also invited Phagpa to consecrate 25 of his ministers.

I witnessed the influence of the lamas in Sikkim where I served as DGP. This beautiful mountainous state of ancient monasteries and its Bhutia population are steeped in Buddhism and the lore of the lamas. Nothing auspicious is commenced without invoking their blessings.

In Gangtok, I heard about the deep impact of Buddhism and the lamas on the Chogyal, former king of Sikkim. He always requested the lamas to pray for good weather whenever he planned to host feasts and festivities in his palace.

One night in the monsoon of 1997 Gangtok was devastated by a cloudburst, followed by unprecedented rains and landslides. Some multi-storeyed buildings collapsed with their occupants. Some others were completely wiped out leaving a vast scale of loss of life and property. Breaches and 'cave-ins' in the roads made relief work a hazardous task.

A huge landslide that crashed down behind my bungalow blocked the ingress and the exit. It was with supreme effort that I reached the police station from where I could mobilise resources for relief and evacuation.

Incessant rains scared people of more landslides. Working overtime, the government turned to the lamas to pray for good weather. Generally not inclined to interfere with the nature, they agreed to chant mantras for the well-being of the people of Sikkim.

Much to the joy of everyone, nature smiled. Rains stopped. The clouds floated away. Sun beams showered hope and happiness. The change in weather gave fillip to the efforts for relief. With the restoration of life, people of Sikkim were happy.

It occurred to me how shrewd warlords Godan and Kublai Khan were in inviting Sakya Pandita and Phagpa Lama to consecrate them and 'advise' how 'to conduct themselves morally and spiritually'. Power of the spirit tempered the power of their sword to rule for the welfare of the living and peace of the dead souls.

The Tribune, 10th August 2010

Love's labour - A True Story

TRUE stories of love and affection are not rare but those of labour of love are rare, indeed.

Jhumroo, a comely girl, is the joy of her parents. Fresh as a daisy, she started going to school when she was four years old. Watching her going to school and returning home was a routine that delighted her parents.

But this schoolgoing started getting disrupted. Jhumroo became pale and weak. Disturbed parents went from one specialist to another to get their child restored to health. But they were devastated when they learnt that the child was suffering from blood cancer. That was their most painful moment. Resolving to give Jhumroo the best possible treatment available they took her abroad, consulted well-known specialists but returned disappointed.

Thomas Hardy's "theory of chance" played its hand then.

Coming home to enquire about Jhumroo's health, a friend advised the parents to show her to Dr Vandana.

Hailed as a doctor with Midas' touch, an angelic person who kindled hope and removed fear of the ailment, Vandana was known not just for her success in treatment but also for affection and care. While medicine cured, her affection dimmed the pain. No wonder Jhumroo bore the treatment well and continued her studies.

The doctor and the parents knew all, but resolved to persevere with the treatment. Mother was ready to leave her job and invest all her time in Jhumroo's care. The father turned down an offer of a lucrative assignment abroad to stay with his daughter.

The treatment was a painful ordeal. But after a long wait the miracle started to happen. Seeing Jhumroo recover, the doctor's joy and the parent's happiness was limitless. Tears of joy washed the pain they all suffered. Love's labour was not lost.

Herself a doctor now, Jhumroo, has resolved to follow her role model Dr Vandana, to pursue specialisation in blood cancer cure.

Dr Vandana's story does not end here. While she was treating Jhumroo, a parallel saga of treatment of a young man was also going on. A bright student

with engaging features put all his trust in the doctor, who in turn, spared no effort in his treatment. The doctor succeeded this time again. Regaining his health and his looks, Ravi stirred something in the doctor's heart. Mutual attraction blossomed into a romance which culminated in their marriage. A quiet marriage was their way of tying the knot.

The couple has since moved abroad. Acutely conscious of Ravi's genetic profile, they have decided not to go in for a child of their own. They have adopted a cute little girl who is their delight.

Union of Vandana and Ravi is their destiny and their bliss. It has a ring of Churchillian saying,

"We married and lived happily ever afterwards".

The Tribune, 29th September 2009

Age of Corruption

History books have divided India's past into different periods like the ancient age, Mughal period, British period etc. The past few decades of the age which began with the dawn of independence would compel the historians to describe this period as the age of corruption and kickbacks.

Unprecedented corruption, bewildering increase in number of scams, ever growing of involvement of public servants in corruption occupying positions as high as Chief Secretaries, DGPs, Judges, Ministers, CMDs of financial institutions, Chairmen of Regulatory Boards etc. media reports about five hundred billion dollars stashed in foreign banks would justify such a categorisation. The result : faith in governance has plummeted to its nether most.

Safeguarding financial integrity of the country is as vital as protecting its territorial integrity. But if institutions - like CVC - set up in 2002 with a renewed mandate to cleanse public life - become subject matter of national controversies, doubts on intention and the capacity of the system to face the challenge of corruption have naturally arisen. These doubts get deepened when it is found that the institutions are failing to fight collectively and resolutely intrusions from out side into their defined roles.

Besides impeding growth and development corruption has caused several upheavals in independent India's history. The government of a major State was dismissed on charges of corruption and the President's rule was imposed following Sarkaria Commission's report. JP movement, launched in 1974 caused a political turmoil in the country. Bank security scam of 1990 conceived and carried out by Harshad Mehta and senior bankers subverted the banking sector. Telgi scam undermined the very credibility of our currency system. Fodder scam of Bihar caused convulsions both in administrative and political fields. Refreshingly, in Sixty four cases of this scam relating to involvement of politicians, public servants and private persons convictions have been awarded to 935 individuals. Disastrous impact of this all pervasive corruption is palpable on our economic growth, development, health, education and, above all, on all "saviour of the poor" schemes like NREGS, the Public Distribution system etc.

In a PIL in the Supreme Court it is alleged that 75% of NREGS funds in

a state have been siphoned off by corrupt officials. Startling instances of poor land owners compelled to part with their small holdings under duress for most inadequate recompense, prosecution of those who declined to oblige the corporate body have also been reported. Such are some of the dismal features of governance today.

The lust for lucre and the urge to gain clout are the driving motives that impel an individual or a group to commit frauds, indulge in scams or corrupt deeds. But the culture of impunity and collapse of vigil account for the ever expanding scope and territory of corruption.

What is the remedy? Investigations are integral to finding out the truth and, most importantly, bringing the corrupt to book. There is a plethora of investigating agencies, vigilance organisations, ombudsmen, lokayuktas and what not. But their success in checking corruption is far from the public expectations.

There is a thinking to add one more Special law - Lokpal Act - to combat the current scenario of corruption, especially, in the political field. Special laws are, no doubt, an answer to special situations but adding to the litany of existing laws without critical appraisal of their implementation may not turn out to be the right remedy. Access to law is not the same thing as access to justice. Law should not get mired in litigation and litigation should not prolong itself to make approach to justice inaccessible. Therefore, expeditious trial and certainty of conviction are the need to dispel the growing dissatisfaction with justice delivery institutions and to deliver a blow to the culture of impunity and Mafiosi. But this task will ever remain incomplete if rooting out corruption from judiciary is not accorded the same - if not greater - priority as is required to be given to other wings of governance.

Protective umbrellas often thrown on the corrupt by their like minded colleagues thwart the efforts of the honest public servants to fight corruption. This is an internal challenge the system must confront with vigour.

Drastic administrative measures like invoking Article 311(2) of the Constitution have become necessary to weed out the corrupt. Remember that Independent Commission Against Corruption (ICAC) set up in Hong Kong in the year 1974 led to summary dismissal of hundreds of public servants and the result is almost zero level of corruption.

For a permanent bulwark against corruption the kindred public must maintain its own vigil and express its rage and denunciation which a democratic polity eminently permits.

Prime Minister's recent exhortation to the Chief Secretaries of States to take on corruption "frontally, boldly and quickly" is both a cry in anguish and "call for action". The state, therefore, has no other alternative than to assume this role to satisfy people's yearning for a corruption-free society as their human right!

The Indian Express, 11th February 2011

Made in Heaven

RAZZMATAZZ of Indian marriages can be devastatingly confounding. Especially, when in big cities, far too many weddings take place on the same day, and around the same time.

The range of decorations of venues, of course, depends on how much one is prepared to splurge. A practice of yore that still persists is having the bride and the bridegroom heavily draped and swathed in embellishments. Outlandish menu for dinner is also often a common sight.

This look-alike show of festivities creates serious problems for the first-time invitees, particularly, those who arrive before time and have to attend more than one marriage. They are in a tearing hurry to hand over the gifts. Once my former chief and I walked into a wrong venue. We handed our packets to a person whom we thought was the kin of the host. He betrayed no emotion and said no thanks.

A nagging doubt alerted us that our gifts had landed in wrong hands. We soon noticed the real host in "pandal" right opposite. Tactfully, we retrieved our gifts and passed them on to our friend.

This is only a minor episode of mix-up Indian marriages can lead to. A wedding was solemnised in a coastal town of eastern India. Dazzled by decorations, the marriage party missed the right "pandal". But the guests did not care. Late and hungry, they headed straight for the food "pandal".

The bridegroom with his face covered was escorted to a tastefully decorated mandap. The mother-in-law waiting eagerly to welcome him suffered a rude shock when she noticed that the boy was not the one they had chosen for their daughter. She complained to her husband that the groom was too dark and looked too aged and certainly not the one they had selected.

The husband tried to pacify the lady, saying that because of the long journey the boy was not his usual self. Doubts were confirmed when the bride arrived and found that the groom in front of her was not the one she had set her eyes on.

The situation became more tricky when the real marriage party arrived, profusely apologising for delay on account of alighting at a wrong venue on the way. Very little of the food items were left for the stragglers. But this did not mar the mood of the host and the guests as the right groom had arrived for the right bride. In-laws, on both sides, heaved most satisfying sighs of relief and exclaimed almost in a chorus that marriages are made in heaven.

The Tribune, 23rd February 2009

Prepare for Bigger Role

The corporate sector should recognise ethics, corporate governance and social responsibility as three principles for its future development India is a nation of billion plus people and has now emerged as a trillion dollar economy. This has come after 60 years of independence. India's economy is full of vigour and vision and holds a great promise. Indian companies are now engaged in aggressive acquisition and merger drives abroad. These developments signify that Indian business and industry have benefited from the growth process.

In the post-independence economic history of our country, there is a paradigm shift in our policies. In the pre-independence days and until recent past, the corporate sector had minimal role in the economic growth and development of the country. Now the Government has reduced its entrepreneurial role, yielding economic space to private sector. The private or the corporate sectors have acquired a predominant role in the management of India's economy and human resources. A stage has come that the Indian corporate sector recognises ethics, corporate governance and corporate social responsibility as three principles for its future development.

The key elements of good corporate governance are honesty, trust and integrity, transparency, responsibility and accountability, mutual respect and commitment to the organisation. It is conceded that the growth process must aim at maximising revenues, but it must ensure growth not only of the corporate sector but also the nation. Corporate growth and nation-building must go hand-in-hand. In a globalising world, aided by advancements in technology and latest techniques in management, the rich no doubt get richer, but there is need to ensure that the poor do not get poorer. Corporate affairs need to be administered in such a manner that the benefits reach even those driven to the margins of human existence and empower them to constitute a firm foundation of these modern-day pyramids of capital growth.

There is need to evolve a harmonious environment, an environment in which citizens feel equally involved in the process of economic growth, an environment in which each citizen sees hope for a better future for him or her. If rising income levels of the corporate sector are not matched by corresponding rise in living standards and improvement of quality of life across the nation, wealth inequalities will multiply and social unrest is sure to follow. In other words, in a modern, democratic society, business must realise its wider social responsibility.

The 10-point social charter spelt out by Prime Minister Manmohan Singh at the CII Annual General Meeting, 2007, included healthy respect for the workers and investment in their welfare, corporate social responsibility, employment to the less privileged, resisting excessive remuneration and discouraging conspicuous consumption and investment in people and their skills.

In the same vein, the Prime Minister exhorted the industry to invest in environment-friendly technologies, promote enterprise and innovation, fight corruption at all levels and promote socially responsible media and finance socially relevant advertising. This is the crux of ethics of business.

India's economic growth has entered a critical phase. It is shedding its image of a bullock-cart economy dependent solely on agriculture. Business is multiplying and industry proliferating. Both the Government and the corporate sector are coming out with new strategies and innovations. Privatisation, setting up of Special Economic Zones, and relaxing controls in spheres of import and export are some of the radical measures, which our Government has taken in partnership with the corporate sector to boost economic growth. These measures have aroused mixed feelings: Rising high hopes on one side and total hostility on the other. As a result we have a serious conflict situation on hand, which poses formidable challenge before the corporate world. This can be resolved if corporate goals are aligned to the community development.

Development, including that of the community, is the prime objective of the state and the corporate sector; but to make it sustainable, it must be based firmly on the foundations of education. Education needs to be accorded top priority. Economic growth cannot be taken forward and sustained without expanding the literacy base. Even technology without education cannot ensure sustained economic growth. Investing in education -- along with taking initiatives for economic growth -- should be the mantra of good governance. However, education should not mean only financial literacy; it should be an instrument for strengthening the moral fibre, building a set of ethical values vital to corporate governance and nation-building.

Nothing erodes the confidence of the people in corporate governance -- or for that matter any form of governance -- as adoption of corrupt practices and unfair means and displaying utter disregard for human dignity. Corporate frauds have rocked our industry, business and fiscal system from time to time. The 1992 stock market scam exposed the nexus between brokers, bankers and public sector undertakings. Rules and regulations were blatantly violated and weaknesses in the system were exploited.

Brokers traded in securities without actually possessing them. Call money transactions, which are inter-bank borrowings, were between brokers, the banks, and the funds for such transactions were obtained from the PSUs. Portfolio management schemes were misused for illegal gains. Financial accommodation was readily given to brokers who utilised the funds for subversive activities in stock market. This, however, did not deter those companies, which had utter disregard for norms. Their unethical trade practices resulted in yet another stock-market scam in 2001. A well-known mercantile bank (Mercantile Cooperative Bank) lent Rs 800-crore to a group of companies owned by a smart broker. Armed with these huge funds -- belonging to thousands of shareholders -- he violated all RBI guidelines and launched "speculative assaults" on the stock exchange. Results were sudden collapse, chaos and confusion.

The UTI scam, when it burst, exposed corporate misadventure. It was the direct consequence of corrupt practices, which gave a complete disregard to all ethics in corporate governance and displayed utter disregard for the crores of shareholders. It is well-known that many companies have managed -- or are still managing -- to avail credit facilities by submitting forged/ fudged financial statements. They resort to illegal diversion of funds. As per an estimate of the National Council for Applied Economic Research, there was a flight of \$ 10 billion between 1990 and 1997. Such corrupt activities lead to shortfall in Government revenues, destabilisation of domestic enterprise and poison the culture of good governance.

The Pioneer, 7th December 2007

Action Here and Now is Needed

The recent Assam violence is a grim reminder of the failure of various Governments to tackle the growing menace of illegal immigration. It is now time to devise new measures, discard the old ones and plan boldly for the future

My heart goes out to Assam." These words, uttered in anguish by Jawaharlal Nehru in 1962 when the Chinese aggression on Assam was feared imminent, brought into sharp focus the vulnerability of this State. Utterly helpless, Assam was about to be abandoned as a highly indefensible position. What happened in the beautiful town of Tezpur where banks were emptied, Government treasuries and currency were burnt, still stands out in public memory as sore reminders of those times.

Years later, the State was beset with aggressions of a different kind - the disruption of its demography, the encroachment on its land and forest wealth, the language agitation and communal violence of 1983. These events changed the course of Assam's history.

Recent happenings in Assam - in Kokrajhar, Gossaigaon and Dhubri, in particular - have revived the horrors of the past. I served as police chief in these districts. Thousands of illegal immigrants used to be pushed back into Bangladesh through the Golakganj check-post. As DIG (Border) I supervised the task. Mr KPS Gill had handled the same task earlier on a larger scale.

Though not foolproof, this method of detection served as the only machinery available to counter the illegal immigrants' menace. Unfortunately, this system has been dispensed with - a massive folly on the part of the authorities - in both Assam and at the Centre. It was a good way to evaluate the dangerous potential of illegal migration. The State's response has been reactive: Never did the Government think of launching a full-fledged assault on this disruptive portent threatening Assam and its security.

This is evident by the revealing observations made by SL Shakdhar, former Chief Election Commissioner that population of the State of Assam had recorded an increase of 34.98 per cent over the 1961 figures.

He says: "In one State (Assam), the population in 1971 recorded an increase as high as 34.98 per cent over the 1961 figures and this increase was attributed to the influx of a very large number of persons from neighbouring countries. The influx has become a regular feature. I think it may not be a wrong assessment to make, on the basis of the increase of 34.98 per cent between the two Censuses. The increase that is likely to be recorded in the 1991 Census

would be more than 100 per cent over the 1961 Census. In other words, a stage would be reached when the State would have to reckon with foreign nationals who may probably constitute a sizeable percentage, if not the majority, of the population of the State."

Insurgency in Assam, a long festering sore in the social fabric - launched by United Liberation Front of Assam, and factors both internal and external, has caused immense damage.

"Vast and incessant flow of millions of human beings illegally from a country to another is a contributing factor behind the outbreak of insurgency." Authorities showed courage in meeting this challenge but their endeavours spawned their own problems with the security, legislative and administrative measures being questioned.

Some of the legislative measures enacted to tackle this issue, like the Illegal Migrants (Determination by Tribunals) Act and the setting up of tribunals remained non-starters as they lacked strong political backing of the State.

Legislative enactments were also self-defeating by the very thoughtless method of their drafting and implementation. Thankfully, this Legislation has been held void by the Supreme Court of India.

But enough harm has already been caused and continues to be caused even now, as it has not been replaced by any new legislation to tackle the illegal migration problem. This must be done expeditiously, as it is crucial to Assam's sustained stability and protection of its identity.

Shrinking land resources, depletion of forest wealth combined with expanding political aspirations of the local populace are by themselves serious matters, but more vital issues like ethnic conflicts that are imperceptibly changing the cultural and linguistic scenario need closer scrutiny, as they are fraught with dangers of future upheavals. But if the solutions are thought of with an eye on the electoral prospects and expediency things are going to get worse. Mr Shakti's observation on this aspect are most pertinent: "Another disturbing feature in this regard is the demand made by the political parties for the inclusion in the electoral rolls of the names of such migrants who are not Indian citizens without even questioning and properly determining their citizenship status".

The Kokrajhar and the Dhubri violence are a reminder of the failure of various Governments to tackle the growing menace over the decades. It is now time to devise new measures, discard those which have not served the purpose and plan boldly for the future. Not for once must we forget that stopping illegal immigration is the core issue that cannot be deferred any longer.

The Pioneer, 1st October 2012

God Hunt

Man does not know when God came into his life. But, as George Bernard Shaw says, "the greatest creation of man is God: omniscient, omnipotent, omnipresent...etc." Invocations to God in early scriptures like Vedas - "Tamso ma jyotirgamye" (lead me from darkness to light), and the Old Testament - "And God said, 'let there be light and there was light' - symbolise the limitations of man and his faith in God's limitless powers to do anything for mankind.

Failure of man's quest to find God has driven him to continue his endeavour. A massive hunt for God has been launched by scientist of the World in Geneva, near the Swiss-French border, to find out what exactly God is or whether there is God at all! Is He just a particle or a paramount power having sway over the havens and the earth which are all believed to be His creations.

This gigantic effort by CERN (European Organisation for Nuclear Research) has been made by setting up under the earth something hitherto unknown in the annals of physics. Known as LHC (Large Hydron Collider), it is a vast ring that will be used to collect protons and their particles, accelerate them in opposite directions at record energy and give some idea of the creator. This has been going on for years with the collaboration of scientists from many countries.

When I was in Geneva last year I got an opportunity to visit CERN and see for myself the LHC. This experiment was being conducted in a huge tunnel running for miles under the earth. Seeing this huge project, I got some glimpses of understanding of this complex concept.

Deep down in the abysses of the earth, at "beam level", this scientific experiment being pursued for decades at an astronomical cost is awe-inspiring, but what it does not inspire is the belief whether God will ever be found. With my own limitations of knowledge - both scientific and spiritual - I felt sceptical about the outcome of the staggering scale of this experiment. Can God ever be found? "Our highest knowledge of God is only partial. There always remains something which is unseen and unspoken," says Dr Radhakrishnan. But this pursuit of the "unseen and unspoken" has impelled humans to go deep down under the earth and the oceans and also soar high into the space to probe planets.

In her latest space journey, Sunita William is carrying with her a copy of the Upanishad. Perhaps, to get some "higher" knowledge about God or just to pray that God help her in her space odyssey.

The ultimate end of all these endeavours is neither partial, nor provisional. It is not even close to what the scriptures say, "Anaadi Anant" (God has no beginning and no end). Even the imagination of the poet fails to conjure up any palpable image of God. William Cowper says:

"God moves in a mysterious way/ His wonders to perform/ He plants his footsteps in the sea/ And rides upon the storm/ Deep in the unfathomable mines/ Of never failing skill/ He treasures up his bright designs/ And works His sovereign will"

Religion, the mind of man and science will go on launching greater endeavours in pursuit of God but what has been known is not even a particle of God and what possibly can be added to this knowledge in future will also not be even a particle of God.

While coming out of the CERN headquarters and being highly sceptical of the experiment of this scientific Titanic, I realised intensely the truth of Vedic saying: "Ataman Veti" - instead of chasing God, "Know thyself". This quest, perhaps, will satisfy by man's curiosity about himself and the Universe.

The Tribune 13th August 2012

Lady with Beads

Mountains, monasteries and monks are the three most defining features of Sikkim. As police chief of the state, I saw grandeur of these sights for almost a year.

While going out for morning walks, I used to see all these in their natural glory. Walking from my official residence to the ridge, my eyes always fell first on Nathu La which seemed almost at an arm's length. This was, of course, an optical illusion. Reaching the ridge, a vista of the unique snow-capped mountains of Kanchenjunga used to rise before my eyes. When the sun was bright and the sky clear, the view of the ranges dominated the sky.

Walking on the ridge up to zero mile and from there to Paljor stadium and back, I used to see a number of monks with prayer wheels in their hands and humming mantras in monotonous tones. After morning prayers in the monasteries they walked in groups in their flowing robes. Their colourful attires set against the green of the pine trees and snow of the mountains, the monks presented a spectacle of rare beauty of contrasts in colours. They prayed for peace and happiness of the people.

There was also a lady monk. I met her almost every day as she came down from the palace monastery down to the ridge. For this solitary figure having a walk around the palace was a daily routine.

Daily I waited for her on the ridge and when she came I tried to make an eye contact with her. Seeing each other almost daily, we did become "acquainted". Holding her rosary and doing her prayers, wearing a most attractive "Bakhu" with two knotted plaits of silky hair falling in front of her shoulders, a cherubic face with a beatific smile, her gait of slow and heavy steps. Tibetan beads decorating her gown made this lady monk a picture of angelic presence.

I tried several times to talk to her. She never spoke. Bliss in her silence and, perhaps, the language was the barrier. But coming out of her deep prayer mode, she always gave a charming smile that brightened her glowing face and cheered my heart.

Following her up to the palace gates, I used to return home with the images of moving vistas and the memory of the lady with beads, fresh in my mind.

Shortly before leaving Gangtok for New Delhi, I met the lady monk for the last time. This time I was determined to exchange a few words with her. Again, I did not succeed. But she stopped for a while. With some gestures, I conveyed to her that I was going away. With a most beautiful smile, she gave a few gentle pats on my back and resumed her walk. I was blessed. To think of Gangtok without recalling the lady with the beads is impossible.

The Tribune 5th October, 2012

Speeches

Human Rights : Accountability of Criminal Justice Functionaries*

Distinguished guests, faculty members and friends,

It gives me a great pleasure to be with you in the valedictory function of the 75th Training Court on Crime and Justice organized by the LNJJN National Institute of Criminology & Forensic Science for the senior level functionaries of the Criminal Justice System including District and Sessions Judges, Addl. District and Sessions Judges, senior level officers from police, prosecution, prison administration and welfare departments from all over the country. I hope that these seven days must have provided you a deeper insight which will be helpful in your day to day functioning.

I shall be sharing my thoughts with you on the subject "Human Rights: Accountability of Criminal Justice Functionaries".

In a civil society criminal justice system occupies a pivotal position. No one can question its importance. According to Herbert Wechsler "This is the law on which men place their ultimate reliance for protection against all the deepest injuries that human conduct can inflict on individuals and institutions. By the same token, penal law governs the strongest force that we permit official agencies to bring to bear on individuals. Its promise as an instrument of safety is matched only by its power to destroy. No where in the entire legal field is more at stake from the community or from the individual".

The Supreme Court in Indira Gandhi v/s Raj Narain case has sounded a similar note:

"the major problem of human society is to combine the degree of liberty without which law is tyranny, with that degree of law without which liberty becomes licence."

It is the call of the day that the functionaries of the criminal justice system remember that respect for human rights implies respect for the dignity and worth of each of our fellow citizens, regardless of caste, religion, race, gender or place of birth. Such respect eliminates the reasons for civil strife. I firmly believe that this quality can itself provide the surest guarantee of a strong nation, with its security, unity and integrity enhanced.

* The workshop on the Subject of Human Rights: Accountability of Criminal Justice Functionaries held on 5th October 2005 at Sardar Vallabhbhai Patel National Police Academy, Hyderabad

In a democratic society, it is the responsibility of the State discharged through its system of justice and enforcement to protect and promote human rights. All State institutions whether they are the police, the army, the judiciary or civil administration have a duty to protect human rights, and prevent their violations. The role of police is especially significant in this respect. The police is charged with the responsibility of maintaining order and enforcing law. Therefore, the onus of bringing those who break the law including laws which protect people's human rights before the criminal justice system, lies on the police.

Among the two most important functionaries in the criminal justice system, the police occupies the prominent position along with the judiciary. In fact, the starting point of criminal justice system is the police investigations. The traditional concept of the police role has, no doubt, been the prevention and detection of crime and to save the society from the injuries caused by the deviant behaviour by some of its own members.. But as the civil society has become more conscious of their rights, they expect the police to act as the most potent guardian of human rights and, naturally, therefore, there is sense of outrage when people witness police functionaries themselves either violating human rights or abetting them.

Indian civil society is undergoing a very significant transformation. The spread of education is much wider and the will of the people to assert themselves is much stronger. While they are willing to cooperate with the agencies of the government, particularly, the police, they are also watchful about their conduct. If the civil liberties are trampled and human rights are violated by the indiscriminate exercise of power and authority vested in the police the latter will not only lose the trust and cooperation of the people but also provoke their wrath which at times places the police in direct conflict with the civil society.

Let us not forget that it is not only the civil society which is being watchful but the Indian judiciary also is keeping an eye on the role and performance of the criminal justice system, especially the police functionaries. Hardly a day passes when we do not read in the newspapers some adverse comments from the judiciary castigating the role of the police especially when a death takes place in police custody or a person's liberty is curtailed by wrongful arrest. This arbitrary or uncontrolled power exercised by the police in making arrests has made the judiciary to exercise a check on their authority.

To be able to play a role worthy of people's expectations, the functionaries of criminal justice system need to identify areas in which uncontrolled and arbitrary use of authority is exercised leading to human rights violations.

The courts have now gone even to the extent of holding individual police officers liable for the excesses they have committed in their custody.

The role of the police has to be inspired by the concept of human rights which is the new gospel. It is mandated by Article 21 of the Constitution of India which is about the protection of life and personal liberty. The right to life enshrined in Article 21, means something more than survival or animal existence. It would include right to live with human dignity. It would also include those aspects of life which go to make a man's life meaningful, complete and worth living. Article 25 of the Universal Declaration of Human Rights, 1948, has incorporated right to decent living as one of the basic rights.

Finally, if I may venture to advise, as custodians of law, and the functionaries of the criminal justice system, it is your "eternal responsibility" ____ which I have just talked about ____ that you adhere to the "due process of law", so forcefully, argued by Lord Denning. According to him 'due process of law' means "the measures authorized by law so as to keep the streams of justice pure: to see that trials and inquiries are fairly conducted; that arrests and searches are properly made; that lawful remedies are readily available and unnecessary delays are eliminated"

Just as crime in society is a violation of the law, the justice system that presents restoration of the rule of law occupies supreme position in the principle of governance. Under the rule of law all wings of the governance, the executive, the legislature and the judiciary are accountable to people and cannot function arbitrarily. Rule of law imposes limitation on the discretionary power of the government and thus acquires supremacy of law as opposed to the supremacy of the government or any political party. It is clearly associated with the concept of the modern State which creates stable, favourable general conditions to allow development of all people living between its boundaries.

Justice and accountability are essential for the rule of law to be upheld in a democratic society. Effective democratic system allows for the peaceful articulation of demands and resolution of competing claims, thereby promoting a sense of justice and social unity. In a truly democratic society, where the rule of law prevails there are lesser and lesser chances of violation of human rights of its citizens. In a society where rule of law is respected its human rights are guaranteed and promoted.

The mere conferring of human rights by the constitution and by other laws is of no avail without a guarantee to provide remedies for their protection and this remedy is provided by judiciary for acts violating the fundamental rights guaranteed to the citizens of the State. The first and foremost is that judiciary must be independent besides being competent.

Here I would like to give an example how judiciary is incapable of delivering justice and how it can deliver justice when it works independently. A recent case of Bilkis Bano is a telling example. Bilkis Bano was gang raped, 13 of her relatives were burnt alive. It was alleged that when she went to the police they refused to register her complaint. She was left without hope until her case was brought to the attention of the National Human Rights Commission. The Commission offered her financial assistance and legal aid. With the assistance of the Commission, the Supreme court passed orders for fresh investigations and also transferred the trial from Gujarat to Maharashtra. Ultimately, the court in Mumbai sentenced 11 men to life in prison for their role in the case.

This case represents both the success and failure of criminal justice system and upholds many lessons to be learnt.

We live in a world where human rights violations are widespread. The rule of law is therefore seen as the only bulwark against these violations. For in a society to be governed by the rule of law requires that it recognizes the supremacy of law which holds all individuals equal before it. Not only does this mean that the law itself must conform to the highest principles of human rights but also that state agencies and officials must be held accountable to this law.

Rule of law itself merely depends upon the courts and law enforcement agencies, though they play a vital role in protecting human rights. It needs general climate of order and discipline, in particular, an attitude of mind according to which the bulk of population is inclined to uphold the law and act in accordance with it irrespective of the fact whether the law enforcement agencies are on the watch or not. In other words, the rule of law causes corresponding duties to the citizens. A State or a nation where its people are conscious only of their rights and not of their duties would soon find itself in an adversarial position to its own human rights. Recognizing the supreme importance of fundamental duties along with fundamental rights and the directive principles, the Constitution of India, following an amendment, lays down that it shall be the duty of every citizen of India to abide by fundamental duties as laid down in Article 51 (A).

*Advocacy Training Workshop for Child Rights Community Development Workers**

During the past decade more people have died as a result of natural disasters than as a consequence of armed conflicts. The Indian Ocean Tsunami of 26th December, 2004 caused the death of over 2,70,000 people in 11 countries of Asia and Africa. In India, it caused huge damage to life, property and the ecosystem. It affected the States of Andhra Pradesh, Kerala, Tamil Nadu, Pondicherry. In this beautiful place of Andaman & Nicobar Islands alone 3500 people were killed; one-third of them were children. A disaster of this magnitude is seen but rarely in the living memory of mankind.

This was a grim situation that confronted the nation. But the nation confronted it with unmatched resolution to mitigate or minimize its devastating effects. The enormity of the disaster was matched by extraordinary effort by the State and society, in fact by the entire humanity across the globe to provide immediate relief and succour to the victims of this calamity most willingly and most abundantly.

With the stupenduous help that the government extended and the extraordinary involvement of non-governmental organizations, international and UN bodies, life has slowly come back to normal. Although, the guiding principles on internal displacement prepared by the United Nations in the year 1998 served as guidelines to help the victims, the human response transcended all these guidelines and they came forward to help the victims most promptly and most generously. What was, indeed, significant was that all this assistance and protection had to be right based and extended without discrimination of race, gender, religion or political orientation. This was also in tune with principle 24(1) of the UN guiding norms that all humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination.

It is well-known that the Convention on the Rights of the Child adopted by the General Assembly of the United Nations, 1989 to protect children rights has, vide Article 19, laid down the following:

- Protect children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse while in the care of parents, legal guardians or any other person in whose care they are.

**30th May, 2007 at Anadaman And Nicobar Islands, Port Blair*

Article 35 lays down that abduction and sale of children and their trafficking for any purpose or in any form are to be strictly prevented. It is gratifying to note that the Government of India has acceded to this Convention in 1992.

The advocacy of human rights must not treat children as mere dependents of adults but as human beings in their own right. It is to be understood that as a group they constitute the future generation and as human beings they are the citizens of this country, fully entitled to all rights guaranteed by the Constitution of India.

A generation comprising children and grown ups cannot be partners in nation building unless they are well adjusted citizens of this country. The children who have been hit by natural disasters and continue to languish without care or protection, will not only remain helpless citizens but also a sordid reminder to the society and the State that they did not care for them and gave them no opportunity to blossom into good citizens. While on this thought I recall the most apt observation made by Prof. C. Raj Kumar and Prof. D.K. Srivastava. I quote:

"Any difficulties and disadvantages suffered at this time will most likely affect them for a lifetime. Also, children are the most innocent social group; they bear no responsibility in causing their disadvantaged situation, and should not be made to suffer the consequences. Moreover, their needs are almost always genuine and not fraudulent. Therefore, in social welfare theory, social protection to children is seen as the most beneficial social investment a country can make. Investment into the childhood period will greatly increase the children's future productivity and reduce the social welfare expenditure of the state. Educational and medical assistance to children is also supposed to be free from the influence of welfare fraud."

What is paramount among the human rights of the children is that we allow them their basic right to survival, development, health care, education, and atmosphere of freedom, dignity and justice. In particular, we have to save them from three "unfreedoms", which, in the words of Professor Amartya Sen afflict a society - Hunger, Illiteracy, Early Death.

Apart from care and nutritious food, a growing child needs clean drinking water for good physical well-being. Water which has been described as the "elixir of life" by our famous scientist and noble laureate, Dr. C.V. Raman, is also known to be the greatest killer, especially, of infants and children. Diseases such as cholera, typhoid, jaundice, diarrhoea etc. are the direct result of contaminated water. Various health-based studies conducted in Andaman & Nicobar Islands and elsewhere have proved that the sub-soil water in the islands has been rendered as an unfit source for potable water for human beings.

The beauty of the islands of Andaman & Nicobar is the wide expanse of water of the Indian Ocean that surrounds them. Let us try and ensure that this water serves as an elixir and not as a killer.

After health, comes the basic need for education which is considered to be all potent parameter of human empowerment. The Administration of the Islands, I am sure is alive to this basic need.

National disasters occurring on such unprecedented scale as Tsunami not only devastate the ecology, environment - including flora and fauna but also result in sociological changes. While restoring conditions to the extent humanly possible and taking steps to safeguard against such disasters in future we have to guard against any unwarranted sociological changes in the society which inhibit the integration of the affected people into the mainstream. This is an area in which organizations such as Butterflies are most competent to play a significant role. Advocacy of human rights can be used as an important tool in thwarting adverse sociological developments and promoting growth, integration of the affected people into the cultural and sociological fabric.

For the children severely hit by the Tsunami, all endeavour should be directed to improve the mother-child health. In fact, the children, expectant mothers, female heads of household, the disabled and the elderly - all - need to be given special protection and assistance. The State and the society, the scientists and the health engineers could constructively collaborate in this task. Medicines which are essential to fortify health and prevent disease have to be carefully chosen and generously distributed, particularly, in inaccessible areas of these islands sub-standard medicines - if not scrupulously excluded - the goal to overcome health hazards well-nigh be impossible to achieve.

Organizations of economic and political arrangements become decisive in natural calamities as pointed out by Oppenheimer. Human concern or sensitivity for human rights are, indeed, essential but unless they are supported by sound economic programs and endorsed by a strong political will, the advocacy of human rights will be rendered as a mere pipe dream. The efforts made by civil society and the State and the NGOs like the Butterflies in the aftermath of Tsunami disaster is a study in how encouragement as help and relief both in terms of financial and material resources came promptly and voluntarily.

The Government of India has not forgotten Tsunami victims and is still engaged in serious efforts to achieve complete rehabilitation. In order to complete the remaining task, the Union Home Minister had convened a high level meeting recently to review the progress in construction of permanent houses for Tsunami victims including Andaman & Nicobar Islands. The meeting reviewed the progress of work in providing community facilities

like markets, post offices, police stations and fire stations at the housing sites. It is noteworthy that the Chief Secretary of the A&N Islands attended the meeting where representatives of the Ministries of Defence and Health were also present. I hope and wish that this meeting will quicken the pace of rehabilitation in these beautiful islands.

Ladies and Gentlemen, I would like you to note that the governmental efforts which I have just mentioned are being vigorously supplemented by Butterflies and other NGOs in association with the Directorate of Health Services. Health Camps have been organized in 11 villages of South Andamans benefiting 550 children and 400 adults. Other activities such as lectures on prevention of communicable diseases, dental care, education awareness rallies and, most importantly, school focused disaster preparedness programmes in 35 schools are the initiatives which deserve to be applauded most heartily.

The National Human Rights Commission in all its years of existence has done extensive work on the issue of child rights. The Commission has concentrated its attention on the child education, prevention and eradication of the problem of child labour, child marriage, child trafficking and prostitution, child sexual violence, female foeticide and infanticide, child rape, HIV/AIDs in children and the problems of juveniles.

After the Tsunami disaster struck the country, the NHRC took suo-motu cognizance of the matter with a view to ensuring proper relief, particularly, to the poor, destitute children (including girl child), women and all persons who were in dire need of relief and rehabilitation.

Various studies have been conducted to study the impact of Tsunami on the affected children. This also includes a study by UNICEF which has concluded that:

- Tsunami-affected children in India give relatively more varied responses to questions, suggesting an openness to expressing themselves and voicing their sentiments.
- The tsunami has left a residual fear of a recurrence of earthquakes (perhaps fortified by further earthquakes in Pakistan) with a significant number of children reporting that their lives have not improved since tsunami.
- The majority are still able to describe themselves as happy and confident and are able to remain hopeful that the future holds promise for themselves and their families.
- India is the only country that reports receiving more tsunami relief from local sources than international/foreign sources.

But to my mind a very important aspect has escaped notice and that is the trauma of the children who have lost their parents and are in dire need of emotional and psychological anchorage. This issue has to be addressed and advocated as seriously as the rights of children. Deprivation of parental care suffered so early in life will most likely affect the children for the rest of their lives. The growth and development of these children demand that we create conditions in which their emotional and psychological needs are also fulfilled. It is a challenge for all of us, far more difficult than other difficulties encountered. It requires a rare degree of imagination to identify these needs. It is my firm belief that the NGOs are far more suited to handle this situation. Here I would strongly urge the NGOs to exhort and motivate those unfortunate women who have lost their children to move out of their own grief and forge a new bond with children who have lost their parents and provide them the much needed touch of parental care. This will be a big step forward in mitigating the suffering of the children, especially, those who have been orphaned. The emotional comfort and psychological support that would flow from such a bond could prove most conducive to the growth of children into well adjusted human beings.

Finally, after any disaster we have to ask ourselves what can we do to prevent the same or minimize the losses. What measures must be taken so that people who get affected receive help most promptly and efficiently. This leads us to studies in oceanography and atmospheric behaviour, lessons in self-help and upgrading disaster management skills aiming at prevention, mitigation and preparedness. All this should receive priority and our urgent attention.

I earnestly expect that organizations like Butterflies and others will generate proper awareness about national disasters after taking full advantage of the knowledge of this phenomenon gained from studies that have been or are still being conducted not only in India but all over the world. I wish this Advocacy Training Workshop on Child Rights all success.

I also assure that NHRC will be all too willing and only too happy to participate in any such programme that can be organized in Tsunami prone areas. In partnership with you, we accept this as our common cause.

*Using Indicators to Promote and Monitor the Implementation of Human Rights**

We are continuing our discourse on "Using Indicators to Promote and Monitor Implementation of Human Rights". Very significant aspects of the subject have already been discussed in the previous sessions like right to health, right to liberty and security, right based approach to poverty reduction etc.

The subject for panel discussion this morning is "Implementing Human Rights - the Way Forward". About human rights agenda and its implementation Dr. Upendra Baxi in his book 'Future of Human Rights' has said:

"Human rights struggles are among the most defining characteristics of the second half of the Christian twentieth century.....The emergence of human rights faith communities is a notable feature of the worldwide promotion and protection of human rights. The international bill of human rights is their sacred text; human rights education is their mission; and the people of the world their congregation. The evangelists believe in the power of the mantra: 'Human rights are inalienable, indivisible, interdependent and universal'."

This call for human rights found its powerful expression for the first time in the Universal Declaration of 1948, and implementation of human rights, thereafter, acquired the force of a movement - an international movement. The Vienna Declaration on social, cultural and economic rights added a new dimension to this creed or dharma of 21st century. It reached its culmination in the adoption of Paris Principles that exhorted all nations to carry the movement forward by setting up human rights institutions. This became both a policy instrument as well as a methodological tool for furthering the implementation of human rights.

While the Declaration generated an appeal close to being universal, the methodologies employed for implementation were not always strictly uniform, as indeed, they can not be. The member nations enacted laws and legislations suited to their cultural, social and economic milieu. The steps taken by the Member States have significantly carried the movement forward.

But while striving to carry the movement forward and evolve indicators to evaluate implementation of human rights, it will be difficult to put the whole exercise in a straight jacket. The flexibility of approach based on conditions particular to different States will have to be taken into account while deciding upon such norms.

**on 28th July, 2007 at India Habitat Centre, New Delhi*

I would wish to quote from the opening remarks of Hon'ble Chairperson of the National Human Rights Commission, Justice S. Rajendra Babu, on the first day of this Workshop. He had said:

".....Thus, there is a need to develop indicators as also to understand them in the right perspective and interpret them taking into account the economic and political context. No single set of indicators will be able to provide information which is universally applicable and as such, often, a group of indicators may have to be used for assessing effectiveness."

I expect this Workshop would provided valuable insights into the way forward for monitoring the implementation of the treaty body system. It is also important, however, that States work together to develop and promote their own ideas for constructive reforms to improve the effectiveness of the UN treaty monitoring system.

The Indian constitution enshrines India's commitment to human rights by guaranteeing to its citizens fundamental political and civil rights. Special provisions for the progressive realization and enforcement of economic, social and cultural rights have also been provided for constitutionally. The independent and impartial Indian judiciary has delivered far-reaching pronouncements on the protection and promotion of human rights. The National Human Rights Commission of India, a powerful and independent body, monitors human rights development in India and shares its experience and expertise with its counterparts in other countries. The free and independent media in India plays a crucial role in promoting respect for and monitoring of human rights. Civil society in India is among the most vibrant anywhere in the world.

We need to have an insight into the manner in which human rights standards can be implemented in society under varying country-specific circumstances. We have to analyze past and current efforts at implementing human rights standards.

Building Human Rights Awareness in the Conference of NHRIs from South Asian Countries*

The twentieth century will be remembered as a century of struggle for human rights. The first clarion call was given by the Universal Declaration of Human Rights in 1948. It sought to awaken the ordinary and deprived people - men and women of all ages---, the excluded groups and to empower them to demand and assert their rights. The declaration has given voice to the common aspiration of all humanity to be treated fairly and justly.

It needs no reiteration that human rights are all about the rights relating to life, liberty, equality and dignity of the individual guaranteed by the constitution, embodied in the international covenants and enforceable by courts, especially in India.

The Paris Principles - adopted on 20th December 1993 by the United Nations General Assembly - gave concrete shape to the aspirations of mankind and urged member States to set up Human Rights Institutions.

The success of the mission to protect human rights and prevent their violations rests on building human rights awareness. It is the sacred task of NHRIs to spread human rights education and commit themselves to empowering the people. The endeavour includes, ladies and gentleman, urging the States to ensure protection of human rights and put them on notice when they fail to do so or themselves are found to be the violators.

It is to be noted that full potential of the human rights approach can hardly be achieved without having in place a machinery devoted to the rule of law. In its sweep, this machinery would have partners from all wings of governance, viz. the executive, the legislature and the judiciary. Their success would depend on soundness of the measures they introduce: be it in the police, prison department, the health sector, education, para-military forces, departments of social justice and welfare, labour, environment etc.

From the perspective of the changing global scenario, it is necessary to have all awareness building programmes wedded to the spread of education. It is disheartening to note that more than 60 years after the passing of the Universal Declaration of Human Rights by the United Nations and in spite of the observance of the U.N. Decade of Human Rights Education (1995-2004) the prevailing situation of human rights education is not satisfactory.

**on 16th April, 2009*

Under Article 26.2 of Universal Declaration of Human Rights and in other major international instruments, it has been reiterated that the human rights awareness is an integral part of the education and has, of late, come close to becoming a human right in itself. Thus, the knowledge of rights and freedom of an individual or others, is the bed rock of all awareness endeavours.

The National Human Rights Commission of India has taken initiatives to focus on this all too important aspect. Starting from taking steps to have human rights education included in the curriculum of schools, colleges and universities, the NHRC has constituted a Task Force consisting of eminent academicians and legal experts to develop a module on human rights education for schools and curriculum for university education. These efforts were followed by organizing regional conferences during 2006-2007 in which, besides academic experts, representatives of the civil society also participated. This effort also includes publishing of know-your-rights in different regional languages.

To my mind, a three dimensional approach can yield tangible results. This would include:

- a) **Knowledge:** Provision of information about human rights and mechanism for their protection;
- b) **Values, beliefs and attitudes:** Promotion of human rights culture through the development of values, beliefs and attitudes which uphold human rights;
- c) **Action:** Encouragement to take prompt and firm action to defend human rights abuses.

Designing training programmes on rights education taking full advantage of existing training institutions, organizing workshops and seminars in congenial environments should be accorded priority for generating awareness are sure to yield desired results if extended to all wings of the criminal justice system, the civil society through NGOs and panchayats, police and para-military forces, key professionals, such as teachers, media persons, medical professionals, social groups etc. The South Asian Countries can benefit a great deal from each other by sharing their training programmes and facilities.

The constitutional edifice of which the judiciary forms a very vital part must stand firmly as a bulwark against all assaults on justice, liberty, equality and fraternity assuring unity and integrity of the nation. The Indian judiciary has ever been in the forefront of giving voice to the aspirations of the people to achieve their civil and political rights, expanding the definition of Article 21 of the Constitution to include right to food and health care, interpreting

the Directive Principles to include cultural, social and economic right as human rights. In fact no human rights institution can succeed in their mission without a vigilant and caring judiciary.

Association of civil society in generating human rights awareness, especially in societies where there are ethnic, religious and political tensions, where there is a history of past conflicts or rights abuses can prove effective in exposing rights violations and encouraging people to assert their rights. Strengthening these institutions is a need that we can ill afford to ignore if the increasing violence, abuse of human rights are to be checked effectively. No human rights discourse will be worth while if it remains confined to secluded environments therefore, ground level units such as we have in India, namely Panchayat can serve not only an effective bulwark against rights violations, but also in getting redressal to the victims. In arenas plagued by conflicts, inequalities, corruption and violence rights institutions must step in and extend their influence and moral authority most willingly and in full measure.

In promoting institutional endeavours, setting up training programmes for spreading human rights literacy, today's media - both print and electronic - must form part of all major efforts to build awareness, for it is beyond dispute that in its reach and capacity to educate people as well as expose rights violations, it remains unmatched. And it is a happy occurrence that media in most South Asian Countries is not only alert, it also enjoys high degree of independence.

Further, it deserves to be observed that no human rights programme will be complete if it does not have redressal mechanism in place. To quote Dr. B.R. Ambedkar

"Rights are real only if they are accompanied by remedies. It is no use giving rights if the aggrieved person has no legal remedies to which he can resort when his rights are invaded"

Therefore, knowledge about making complaints and their disposal ought to be a vital component of all awareness building exercise. The National Human Rights Commission of India has sound system in place in this regard and it has been very gladly sharing its expertise whenever requests from any NHRI were received.

Finally, one cannot but observe that no human rights programme will be complete and enjoy validity if it does not reach out to the impoverished masses and the dispossessed who are ignorant of their rights and thus stay incapacitated to seek any redressal of the wrongs done to them in the past and those being done even today. It is generally noticed that a large majority of the victims of human rights violations are those belonging to socially

downtrodden, economically weaker sections of the society as also women and children. Whether it is illegal detention, custodial torture, false implication or inaction on the part of police or prevailing corruption or the problem of child labour, bonded labour, trafficking of women, child marriage or female foeticide, the sufferers are those who are weak and vulnerable. The reality is that today ordinary citizen is living in an era of instability and fear, lacking basic security of normal existence. Therefore, it should be the first task of all South Asian Countries NHRIs to have sound awareness building measures in place to dispel ignorance about human rights to empower people to assert and exercise their rights and be bold to seek redressal whenever and wherever violations take place.

*Children as Victims of Crime - Socio-Psychological and Forensic Perspective**

Broadly speaking, violence against children encompasses deliberate behaviour by people against children that is likely to cause physical or psychological harm. It includes physical abuse, sexual abuse, emotional abuse, medical abuse and exploitation of varied kinds, such as sexual slavery, prostitution, pornography, sex tourism and child labour. Many are trafficked and sold under the cover of inter/intra-country adoptions, used for organ transplants, and surreptitiously used in criminal activities, such as selling drugs, robbery, burglary and petty theft. These manifestations appear in both developing and developed countries. India, certainly, is no exception to this.

Ironically, as far as causes of violence against children are concerned, there is dearth of research and the available data does not help to arrive at any definite conclusions. However, by and large, it could be said that the problem of inflicting violence against children is a complex one and a range of socio-psychological factors may be responsible for its occurrence. It is by now clear that the phenomenon of violence against children is often the result of an interplay of several factors which may include parental inadequacies or illness, or situations peculiar to families or cultural or environmental factors such as poverty and all the concomitants that go with it, natural disasters or economic depression.

Surprisingly, the idea that physical, sexual and emotional abuse also could and does take place within the families and institutions is a fact which many people still find difficult to digest. A study of reports appearing in newspapers, magazines, and television channels clearly suggests widespread occurrence of violence against children in a variety of forms all over the country. Instances of violence are reported daily from the well-to-do and the poor, among the literate and the illiterate and among rural and urban families alike. Children are known to have been subjected to numerous forms of brutality by their caretakers at times in the name of discipline and sometimes just because they are the most easy and defenseless targets of adult anger, frustration and lust. Pick up any newspaper, one would be amazed to see that it is one's own family members - father, brother or cousins who inflict violence on their own daughters and sisters, that is, the girl child. Only

* on 2nd February, 2007 at Amity Institute of Behavioural Health & Allied Sciences, Amity University, UP

yesterday, that is, on 1.02.2007, the National Human Rights Commission took suo-motu cognizance of a distressing news-item captioned: Parents turn pimps, sell girls in AP. According to this report young girls are being sold and forced into flesh trade by their own parents. Whom parents turn pimps and traffickers, the children become most vulnerable.

The parents and adults have authority over children due to their dependent and this increases the child's vulnerability. Despite, the growing recognition of children's rights as human rights, children continue to be seen as property on the part of adults who treat them as though they are objects, who could be sold, bought, exploited and got rid of. The low status of children is reflected in the fact that only a handful of countries have adopted laws that give protection to children.

I would like to highlight the another aspect of crimes against children. Generally full of eccentricities commit these crimes. These include persons who are psychopaths, sexually perverted people, those who have got away with all kinds of deviances that they may have indulged in. What really encourages these people to commit such grave crimes is the sheer helplessness of children and the fact that they would not report against the perpetrators.

Just as a vast number of children cannot count on their parents for their life and security, they have had bitter experience of the criminal justice system in India which is considered the guardians of fundamental and human rights. In terms of combating violence against children, laws relating to violence tend to be piecemeal, focusing on specific forms of violence rather than dealing comprehensively with all forms of violence relating to children. Even the piecemeal laws are full of inherent gaps and ambiguities. The resultant effect of all this is that there is weak law enforcement. This often leads to victim apathy and distrust and avoidance of the system. In certain situations, such as trafficking in children, corruption among law enforcement officials is cited as a major obstacle. Many children, who have been victims of trafficking, have reported that they were transported with the help of law enforcement officials across borders and then to brothels.

Further, victimised children, in certain circumstances, are treated as perpetrators of crime. The danger is enhanced when children are used in criminal activities. In most countries, including India, the authorities pick up children who have been trafficked for prostitution and end up in a criminal justice system which treats them as criminals rather than victims. Another example is of street children who are detained illegally and are at times beaten up as they are viewed as vagrants and criminals. "Clean Up" city street campaigns are often conducted to round up alleged street children and are sent to Homes of different kinds, without due process measures. Children

who have been trafficked across borders have also been treated like criminals in the countries of destination, as illegal immigrants or as prostitutes. They are placed in "camps" or transported to "rehabilitation centres" without due process. If found illegally in another country, children are subjected to arrest, detention and deportation. Back in their own country, they are prosecuted as criminals or are refused re-entry. The current policies in many countries deter children from reporting to the authorities. The failure to distinguish these children as victims from perpetrators is a significant drawback in our country as well as in many other countries.

With the growing concern of violence meted out to children, the international community has devised a framework of international human rights instruments and UN mechanisms to respond to this problem. These norms, though piecemeal, cover a wide range of manifestations of violence against children. I shall briefly spell out the same.

The 1989 Convention on the Rights of the Child ensures that the child is to be regarded as a human being and a member of society who has full human and legal rights, and not simply as an object of care or control by adults. This has been widely ratified, as a treaty by several countries including India. The standards contained in this Convention are truly universal. While most of the provisions are not new but in a way, they reaffirm the earlier human rights standards. Needless to mention, the Convention adopts a rights - based approach setting out four general principles - non-discrimination, including gender-sensitivity; upholding the best interest of the child; the right to life, survival and development; and the respect for the views of the child. The child is to be given the opportunity to be heard in any judicial and administrative proceedings either directly or through a representative or an appropriate body. This right is significant not only for what it says, but because it recognizes the child as a full human being, with integrity and personality, and with the ability to participate fully in society.

Article 19 of the Convention recognizes that the right of children is to be protected from all forms of physical and mental violence, injury and abuse, neglect or negligent mistreatment or exploitation by parents or others. Specific forms of exploitation are prohibited in Articles 32 - 35, whereas Article 36 is a catch - all provision requiring States to protect children from all other forms of exploitation prejudicial to any aspects of their welfare. Article 39 imposes a duty on States to "promote physical and psychological recovery and social rehabilitation" of children who have been victims of "any form of neglect, exploitation or abuse". Such recovery and reintegration is to take place in an environment, which fosters the health, self-respect and dignity of the child. Article 37 (a) further provides that no child shall be subject to torture or other cruel, inhuman or degrading treatment or punishment, encompassing

those acts committed by State Agents, such as law enforcement and correctional personnel.

The Child Rights Convention specifically refers to the child's right of protection against all forms of sexual exploitation and abuse including trafficking, child prostitution and child pornography. There is an Optional Protocol to the CRC on this aspect that the Government of India has also ratified.

The UN Committee on the Rights of the Child has also issued several General Comments relating to different aspects of Implementation of the Convention on the Rights of the Child. A Special Rapporteur has also been appointed on the sale of the children, child prostitution and child pornography by the United Nation's General Assembly.

This apart, there is the Convention on the Elimination of All Forms of Discrimination Against Women, which is useful in dealing with matters relevant to girl children, especially after the adoption of the Beijing Platform of Action, which refers specifically to girls as a "special area of concern". The Declaration on the Elimination of Violence Against Women also defines violence against girls and requires States to ensure that 'revictimisation' does not occur as a result of 'insensitive' law enforcement practices.

Credit Card Frauds - Investigative Modes and Efficient Solutions*

Crime has always been constant phenomena in any society. As all of us know, crime includes any act or omission that causes a breach of rules or law and that, which is counterbalanced by a state imposed sanctions. Crime is a social and economic phenomenon that is as old as the human society. It is a legal concept that has the sanction of the law. Any crime is followed by legal proceedings that ultimately lead to a punishment.

Cyber Crime:

Cyber crime is one of the latest and most complicated types of crime, which involves computer as a subject or object of the conduct constituting crime. If I were asked to define cyber crimes, then I would use the following definition to explain the problem:

"Any criminal activity that uses a computer either as an instrumentality, target or a means for perpetuating further crimes comes within the ambit of cyber crime"

The computer that is used in the commission of offence classified under the category of cyber crimes may include acts such as financial crimes, sale of illegal articles, pornography, online gambling, intellectual property crime, e-mail spoofing, forgery, cyber defamation, cyber stalking etc. But there are also cases where the computer may become the target of unlawful activities such as in cases involving unauthorized access to computer/ computer system/ computer networks, theft of information contained in the electronic form, e-mail bombing, data didling, salami attacks, logic bombs, Trojan attacks, internet time thefts, web jacking, theft of computer system, physically damaging the computer system.

So if we take a closer look both at the conventional crimes and cyber crimes, we would realise that they are more or less based on the same phenomena that is the commission/ omission of an act that is essentially in violation of law and has a sanction attached to it. If I were to mark one essential difference between the two, then I would say that the clear demarcation between the two lies in the involvement of medium for the commission of an offence. The compulsion of cyber crimes is that it definitely involves the use of a virtual cyber medium for the commission of an offence.

*National seminar organised by the Department of Criminology University of Chennai held on 1st-2nd March, 2005

Cyber crimes are a very serious threat for the times to come and pose one of the most difficult challenges before the law enforcement machinery. Most cyber crimes do not involve violence but rather greed, pride or play on some character weakness of the victims. It is difficult to identify the culprit, as the net can be a vicious web of deceit and can be accessed from any part of the globe. For these reasons, cyber crimes may be considered as 'white-collar' crimes.

Economic Offences through Cyber Space

Most of you present here would not disagree, I am sure, if I say that India is a country that has the world's largest number of computer professionals-both hardware and software experts. They are doing the country proud as a large percentage of these people are employed in different parts of the world and are highly sought after for their skills and expertise. But as there are two sides to every coin, the other side of the coin here is that not all the computer experts make legitimate use of their skills or expertise. Some of these talented individuals have been noticed to be using their skills in committing crimes that require computer technology and quite a major portion of the computer crime is directed against the economy. Some typical examples where computers could be used to commit economic crimes include:

- ★ Bank Frauds
- ★ Credit Card Frauds
- ★ Counterfeit Currency Notes
- ★ Telephone Exchange Fraud
- ★ Internet Auction
- ★ Hacking etc.

The problem is getting really serious because more and more people with some expertise in computer programmes are taking to crimes. As a result, newer forms of crimes get committed and it becomes all the more difficult to tackle such criminals in a conventional way.

Credit Card Frauds :

Today's industrial economy is evolving into a new business environment in which money, goods, services and information are exchanged electronically. The use of Internet by different agencies for different purposes has become widespread. Banking and commercial services use Internet extensively. Financial transactions take place on the Internet. The Local Area network

(LAN) technology interconnects several branches locally. The advancements in the name of EFT (Electronic Funds Transfer), Credit Cards, electronic aided delivery system such as ATMs and POS (Point Of Sale) devices facilitated customers to choose services from desired channels of banking services. In other words, the automation and computerisation of banks to the advancement of cyber technology opened up new techniques of fraud for intelligent minds.

The frauds relating to a credit card is one such product of intelligent minds that is one of the biggest threats to business establishments today. The credit card frauds can be:

- # An act of criminal deception by use of unauthorised account and/or personal information.
- # Illegal or unauthorised use of account for personal gain
- # Misrepresentation of accounts information to obtain goods/services.

Both the cardholders and the merchants are at risk from credit card frauds.

As I had said earlier, change in technology brings about a change in the mode of commission of such frauds. So, we can classify such frauds into the following broad categories:

- a) Traditional card related frauds.
- b) Merchant related frauds.
- c) Internet frauds.

Traditional card frauds involve situations where an individual may obtain information about another individual and open an account in his/her name; or where a card is often lost or stolen for criminal purposes; or where a fraudster illegally obtains a valid customers' personal information and takes control of a legitimate account by either providing the customers' account number or card number; or the creation of counterfeit cards together with lost/ stolen cards pose great threat in credit card frauds. Some of the techniques that may be used to create false and counterfeit cards include erasing the magnetic strip, creating a fake card, altering card details, skimming (process where a genuine data on a card's magnetic stripe is electronically copied onto another) etc.

Merchant related frauds are initiated either by owners of the merchant establishment or their employees. This type of fraud occurs when the owners and/or their employees conspire to commit fraud using their customers' accounts and /or personal information. Or they can even pass on the information about the cardholders to the fraudsters.

Internet related frauds are committed via Internets as they provide an ideal ground for fraudsters to commit frauds in an easy manner. With the expansion of trans-border or global social, political or economic spaces, the Internet has become a New World Market, capturing consumers from most countries around the world. This can be done either by site cloning (where fraudsters clone an entire site or just the pages from which you place your order), false merchant sites or by credit card generators (where it involves computer programmes that generate valid credit card numbers and expiry dates).

Statistics on Credit Card Frauds :

In India also, credit cards are gaining ground. More and more banks are encouraging their people to go in for credit cards. The expected growth rate of credit card business in India is 25-30%. Customers no longer carry cash with them as all bill payments including utility payments can be taken care by credit cards. But the increase in the use of these cards is also leading to an increase in the number of credit card frauds committed all over the world. If we take a look at the high-risk countries facing the menace of credit card fraud menace, Ukraine tops the list with staggering 19% fraud rate closely followed by Indonesia at 18.3% fraud rate. Also in the list of high-risk countries are Yugoslavia 17.8%, Turkey 9% and Malaysia 5.9%. Over the last two years, the credit card industry in UK has also been subjected to maximum threat from increasing fraud losses. Credit card crime is a major threat to any economy, because of its attraction to criminal elements ranging from those committing simple frauds to major organized criminal activities.

The Crime in India has compiled a statistics on all kinds of economic offences including credit card frauds under the head 'major frauds'. According to crime in India 2001, the number of major fraud cases registered under criminal breach of trust had come down the year 2001 when compared to the year 2000, where as major cheating cases had almost doubled during this period. On an average, public were cheated by fraudsters to the tune of Rs.10 crores, in a day in major frauds. During the year 2001, the total number of cases reported under criminal breach of trust and cheating were 2501 (all India), of which Punjab constitutes 2355; Karnataka 65 cases; Gujrat 21 cases; Nagaland 17 cases, Tamil Nadu 8 cases and the remaining cases were reported from various other states and Union territories **(You may kindly update with recent statistics).**

The above data on criminal breach of trust and cheating does not provide a realistic picture of the extent of credit card frauds in India. This may be due to non-reporting of cases by the victims or non-recording by the law enforcement agencies. There is also no official statistics on number of cases investigated, tried or adjudicated. It is also not possible to infer from the available statistics, the number of cases that resulted in conviction or acquittal.

Investigation of Credit Card Frauds:

Today, the commission of crime no more requires the physical presence of the offender at the scene of crime. It could be performed from an unknown point depriving individuals of their assets. The crimes committed using computers are relatively easy to commit, difficult to detect and hard to bring culprits to book. This may be due to a number of reasons, important of which is understanding of the computer technology and its use by the offenders in commission of the crime. Most of these frauds also escape detection usually because no body is made accountable for the task. It is very important to make sure that the investigating officers or the officers dealing with cyber crimes are given special training in the field of computers so that it becomes relatively easier for them to detect commission of such offences.

While technical solution for electronic tracing of the computer criminals are becoming more and more available, there is a need to evolve mechanism for illegal co operation by reaching at international agreements on common definitions of computer crimes, issues concerning jurisdiction, procedural laws and extradition etc.

Statutory Provisions :

The Indian Parliament considered it necessary to give effect to the resolution by which the General Assembly adopted Model Law on Electronic Commerce adopted by the United Nations Commission on Trade Law. As a consequence of which the Information Technology Act 2000 was passed and enforced on 17th May, 2000. The Preamble of this Act states its objective to legalise e-commerce and further amend the Indian Penal Code 1860, the Indian Evidence Act 1872, the Banker's Book Evidence Act 1891 and the Reserve Bank of India Act 1934. *The basic purpose to incorporate the changes in these Acts is to make them compatible with the Act of 2000. So that they may regulate and control the affairs of the cyber world in an effective manner.*

The Information Technology Act deals with the various cyber crimes in chapters IX & XI. The important sections are Ss. 43,65,66,67. Section 43 in particular deals with the unauthorised access, unauthorised downloading, virus attacks or any contaminant, causes damage, disruption, denial of access, interference with the service availed by a person. This section provide for a fine up to Rs. 1 crore by way of remedy. Section 65 deals with '*tampering with computer source documents*' and provides for imprisonment up to 3 years or fine, which may extend up to 2 years or both. Section 66 deals with '*hacking with computer system*' and provides for imprisonment up to 3 years or fine, which may extend up to 2 years or both. Further section 67 deals with publication of obscene material and provides for imprisonment up to a term of 10 years and also with fine up to Rs. 2 lakhs.

Analysis of the Statutory Provisions :

The Information Technology Act 2000 was undoubtedly a welcome step at a time when there was no legislation on this specialised field. The Act has however during its application has proved to be inadequate to a certain extent. There are various loopholes in the Act and some of which may be discussed in brief. One of the deficiencies, if I may say so, is the hurry in which the legislation was passed, without sufficient public debate, and thus it did not really serve the desired purpose. Another point of contention is that the Cyber laws, in their very preamble and aim, state that they are targeted at aiding e-commerce, and are not meant to regulate cyber crime. But if the preamble is read on a whole, one will understand that though it speaks of e-commerce, it also aims at curbing cyber crimes. Another aspect of the IT Act 2000 is that Cyber crime in the Act is neither comprehensive nor exhaustive. And there is a felt need to evolve comprehensive legislations to curb the emerging forms of cyber crimes. Also, the need of the hour is a

worldwide uniform cyber law to combat cyber crime. Cyber crime is a global phenomenon and therefore the initiative to fight it should come from the same level. One other important reason that the Act of 2000 is not achieving complete success is the lack of awareness among the individuals about their rights. Further most of the cases are going unreported. If the people are vigilant about their rights the law definitely protects their right. For example, the Delhi High Court in October 2002 prevented a person from selling *Microsoft pirated software* over an auction site. Achievement was also made in the case before the Court of Metropolitan Magistrate, Delhi wherein a person was convicted for *online cheating* by buying Sony products using a *stolen credit card*. Yet another important aspect relating to cyber laws is the question of jurisdictional issue. Jurisdiction is also one of the debatable issues in the cases of cyber crime due to the very universal nature of cyber space. With the ever-growing arms of cyber space the territorial concept seems to vanish. New methods of dispute resolution should give way to the conventional methods. The Act of 2000 is very silent on these issues.

In the present scenario, the emphasis should be on the need for a well equipped task force to deal with the new trends of hi tech crime. The government has taken a leap in this direction by constituting cyber crime cells in all metropolitan and other important cities. Further the establishment of the *Cyber Crime Investigation Cell (CCIC) of the Central Bureau of Investigation (CBI)* is definitely a welcome step in this direction

Conclusion :

Capacity of human mind is unfathomable. It is not possible to eliminate cyber crime from the cyber space. It is quite possible to check them. History is the witness that no legislation has succeeded in totally eliminating crime from the globe. The only possible step is to make people aware of their rights and duties (to report crime as a collective duty towards the society) and further making the application of the laws more stringent to check crime. Undoubtedly the Information Technology Act is a historical step in the cyber world. Further I all together do not deny that there is a need to bring changes in the Information Technology Act to make it more effective to combat cyber crime. I would like to conclude today saying that there is a need to work together towards curbing this growing menace of cyber crime and to ensure that people do not suffer in silence.

Debate Competition organized by Haryana Police on Human Rights - Dowry Victims*

I am very happy to be present here today in the historic city of Panipat to inaugurate debate competition being organized by Haryana Police to sensitize its members towards scourge of dowry prevalent in our society, focusing on the victims of this menace, which has affected everyone irrespective of class, creed, race or religion. All gathered here have come to debate the rights of women at a time when unprecedented and horrendous crimes are being committed against women. The other half of the society cannot lead a life with dignity or enjoy human rights unless there is Rule of Law, Justice and Equity, unless the society has a strong impartial machinery to enforce law and order and to prevent crimes and punish criminals. We can no longer take for granted civilization as we knew it.

Women's subordination is a result of inter-play of complex socio-economic and political forces. Therefore, there are no easy formula for women's empowerment. Sustained work for gender equity in several spheres is needed for this purpose.

We have to look deeply at the particularly pernicious practices which degrade and humiliate women. We have to focus on elimination of dowry and its pernicious manifestations such as dowry deaths and dowry related crimes. A paranoid parental worry of parting with a large sums of money in order to get a daughter married, has driven parents to extreme measures. They have affected the girl child's very right to be born. Recently, there has been a great deal of discussion on female foeticides and misuse of pre-natal sex determination tests for the purpose of abortion of female fetuses. The sex ration has fallen sharply. This is the ugly face of dowry. An uglier face of dowry shows itself in dowry deaths and dowry related crimes such as torture of a young bride. The lure of easy money and craving for a lifestyle one cannot afford fan this fire. For similar reasons, we saw in the 80s an attempt to revive the practice of Sati. Unless such practices are controlled and their practitioners checked, women will find it difficult to lead a life with dignity and self-respect even within their homes.

There are other fallouts of dowry. Women are deprived of their inheritance rights on the pretext that the parents have to pay dowry. Even when the law gives a daughter a right to inherit her parents' property, the parents will make a will giving everything to the sons on this specious excuse.

**Keynote address at the debate competition organised by Haryana Police on Human Rights - Dowry Victims held on 10 May 2005 at Panipat*

The Dowry Prohibition Act, 1961 in its introduction states:

"Dowry has proved to be menace to society. It has taken the shape of commercial transaction. A large number of persons without or with meager means are unable to marry their daughters and even after that the women after marriage are subjected to torture and also to death. This act, therefore, was enacted to make stringent provisions to check this evil."

This was the year 1961 when law makers, feeling the pains through which our society was passing; to stop this menace, enacted the law to stop this scourge once for all.

This month, i.e. almost 44 years after enactment of this law, a three member bench of the Supreme Court of India comprising Chief Justice R.C. Lahoti, Justice G.P. Mathur and Justice P.K. Balasubramanyan passing the order on a public interest litigation petition directed the Centre and the State Governments to consider framing of rules to compel men seeking government employment to furnish information whether they had taken dowry: if so, whether the dowry had been made over to the wife as contemplated under the Act. The rules could also seek such information from those already in government service. The Supreme Court judgement faulted both Centre and the States for their failure to put serious effort in the implementation of the Dowry Prohibition Act. The Hon'ble Court further noted that it is not as if the menace posed by dowry has in any way lessened. One can take judicial notice of the fact that cases of dowry harassment are splashed in newspapers almost everyday. When there is failure on the part of the Executive to strictly implement a law like the one in question, enacted to tackle a social problem which as assumed menacing proportions, the court has a duty to step in to give a mandamus. The Bench further added that the States should take steps to step up anti-dowry literacy among the people.

While quoting elaborately the above judgement of the Hon'ble Supreme Court of India, I commend the Haryana Police in organizing this debate competition at the most appropriate time.

The National Human Rights Commission remains deeply concerned about the issue of domestic violence against women. In its Annual Report 2002-2003, the Commission had reported that the Protection from the Domestic Violence Bill, drafted by the Department of Women and Child Development, in consultation with the Ministry of Law, Justice and Company Affairs was introduced in the Parliament on 8 March 2002. Thereafter, the Bill was referred to the Standing Committee of the Parliament pertaining to the Ministry of Human Resource Department for further examination and for suggesting changes, if any, required in the Draft Bill. After the Standing Committee

submitted its report, the Department of Women and Child Development sent a copy of the Draft bill, along with a copy of the report of the Standing Committee to the Commission for its comments. The Commission carefully examined the provisions of the Draft Bill and the report containing the recommendations of the Standing Committee and its detailed suggested were forwarded to the Department of Women and Child Development on 30 January 2003. The NHRC has been pursuing the matter on a regular basis with the Department of Women and Child Development.

Further, the Universal Declaration of Human Rights (UDHR) adopted and proclaimed by the United Nations General Assembly on 10 December 1948, to which India is a party, in its Article 5 states:

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment"

Article 2 of the Universal Declaration states:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex language, religion, political or other opinion, national or social origin, property, birth or other status....."

Article 7 states that "all are entitled to equal protection against any discrimination". Also Article 17 emphasizes that "no one shall be arbitrarily deprived of his property".

In the Indian context, the rights of dowry victims have been and are being violated continuously by the male side of the family overlooking the brides rights when the family disliked or wasn't satisfied with the bride's dowry, they may physically harass her, drive her to suicide or kill her (violation of Article 5 of UDHR)

The practice of dowry killing has changed its role into a money making process. When a woman gives man dowries, the dowries are his to take and keep, hence leaving the women with no money.

I may add here that traditional attitudes and customs die hard. A structural social transformation is not easy. It is time that the nation takes stock of its attitude towards women and learns to respect their dignity and worth. It is a challenge more for men than for women. Yet men have failed to respond adequately. Even sensitization programmes on women's rights are attended mainly by women, when they ought to focus on men. It is only when societal attitudes are changed, when education of men and women leads to a change in perception relating to the rights of fellow human beings, that this kind of a transformation can take place. The change is not going to come

automatically. The process of sensitization must start in childhood and within the family. It is a challenging task for the more enlightened amongst our people and I hope that they will take the lead in formulating good strategies for promotion of constitutional values and human rights in the country.

I conclude by thanking the organizers of the debate competition and wishing all the participants the very best for fruitful and enlightening debate on this very sensitive issue.

*To Promote and Protect Human Rights**

The executive has enormous responsibility in applying the national laws in the spirit in which they have been enacted for it has been seen that it is in the implementation of laws that violations of human rights are committed by the members of the executive also. It goes without saying that modern executive is vested with so much of power that the power management has become a huge responsibility. We have to constantly remind ourselves that it is the primary responsibility of the executive to ensure observation of the rule of law. Further, it has been clearly understood that refusal of lawful action in discharging of its duties in itself is a serious threat to human rights of the many human rights today, those in economic, social and cultural areas are particularly widespread across the world's nations and people. In fact weaker sections of the society suffer the most from such violations which are at the root of serious social and economic problems faced by our society. The most effective way, in my view, to solve such problems is to guarantee human rights of the weaker sections of the society in full measure.

Dr. Justice A.S. Anand, Chairperson of the National Human Rights Commissions in his lecture on "Terrorism - An Affront to Human Rights" stated that human rights are basic to civilized existence and right to life is the most basic of all rights. In democratic societies fundamental rights and freedoms form part of the law and their protection therefore becomes the obligation of those who are entrusted to protect them".

Human rights protection at the national level depends on the existence of rule of law and democratic system which makes possible the establishment and effective functioning of the institutions. While traditional institutions - Parliament, Judiciary and the Executive - provide the very foundation of the protection the specific institutions now developing in various countries such as human rights institutions, are bound to play a decisive part in encouraging new approaches and methods which correspond to the specific nature of human rights and the need to ensure both their promotion and protection.

It is reiterated that the State is chiefly and primarily responsible for the protection of human rights. However, in addition to it, other private actors in the civil society, such as trade unions, professional associations, political parties, media, NGOs also play a vital role towards this end. However, it is

**Speech in Sikkim*

a fact that primarily the effective protection of human rights in a country depends ultimately on its aware and informed citizens. The citizens must be informed and made aware of their human rights. Though much has been done in this area, still considerable efforts still remains to be made if we wish to see the development of human rights, protection for all, and establishment of a culture of human rights which is the best way of guaranteeing their observance.

The indigenous example of public outcry for perceived miscarriage of justice in Jassica Lal murder case and Priyadarshni Mattoo murder case are examples of restoration of rule of law. Similarly, the National Human Rights Commission of India in, Gujarat riots matters, on acquittal of all the accused of Best Bakery case, where 14 persons were killed, took a serious view of damage caused to credibility of criminal justice delivery system and negation of human rights of victims, filed a Special Writ Petition under Article 136 of the Constitution of India in the Supreme Court seeking directions for further investigation by an independent agency and retrial of the case in a competent court located outside the State of Gujarat. intervened. Also in another matter connected with Gujarat riots, of Ms Bilkis Yakub Rasul, a victim of gang rape at Godhera, the Commission after considering her request offered financial/legal assistance to the applicant for pursuing legal remedies, it engaged an eminent advocate of the Supreme Court of India to file a case in the Supreme Court on her behalf.

The National Human Rights Commission, on daily basis, looks into the various cases of violation of human rights which it receives from all corners of our country, recommends action against public servants found responsible for violations of human rights of the petitioners. This serves the purpose of reminding the public servants and the members of the executive whose primary task is to maintain the rule of law that they are also accountable to the rule of law.

*Eastern Regional Review Meeting on Mental Health**

Health does not mean mere absence of disease but physical, mental, psychological and emotional well being of an individual. "Right to Health" is indeed a fundamental human right. It is the duty of the State to promote, protect and preserve the health of all individuals.

In many parts of the world, people with mental disabilities are excluded from society and segregated in closed institutions. and these individuals are especially vulnerable to discrimination and abuse.

A report prepared for the National Human Rights Commission (NHRC) in 1999 after an empirical study of mental hospitals in the country by NIMHANS made a damning indictment of the state of mental health institutions. The findings reveal that there are predominantly two types of hospitals. "The first type does not deserve to be called 'hospitals' or mental health centres. They are 'dumping grounds' for families to abandon their mentally ill member, for either economic reasons or a lack of understanding and awareness of mental illness. The living conditions in many of these settings are deplorable and violate an individual's right to be treated humanely and live a life of dignity. Despite all advances in treatment, the mentally ill in these hospitals are forced to live a life of incarceration."

"The second type of 'hospitals'," the NHRC report continues, "are those that provide basic living amenities. Their role is predominantly custodial and they provide adequate food and shelter. Medical treatment is used to keep patients manageable and very little effort is made to preserve or enhance their daily living skills. These hospitals are violating the rights of the mentally ill persons to appropriate treatment and rehabilitation and a right to community and family life".

The conditions of persons with mental illness in institutions have been a cause of serious concern to the NHRC.

The death of twenty-eight mentally ill people in the faith-based mental healing centre at Erwadi, Tamil Nadu a few years back highlights the deplorable state of mental health care in the country and the need for the government to reach out to the mentally ill. Most of the persons with mental illness are deprived of their basic human rights and right kind of treatment by authorities as well as civil society.

**on 5th June, 2009 at RINPAS, Ranchi*

Treatment gap in mental health is a serious human rights violation :

In the modern age, we are now living with increasing stress owing to various factors. In the times to come, the stresses and strains will further increase, thereby making mental health a very significant issue.

Morbidity on account of mental illness is set to over take cardiovascular diseases as the single largest risk in India by 2020. According to NIMHANS, there are over two crore persons in our country who are in need of treatment for serious mental disorder and about five crore people who are affected by common mental disorder. About 30 to 35 lakh persons need hospitalization at any time for mental illness. In contrast, there are about 29,000 beds available. This huge treatment gap, with 50-90% of people not able to access services, is a serious human rights issue. Stigma-related discrimination faced by persons with mental illness also makes it a matter of deep concern to the National Human Rights Commission.

With a view to protect the rights of persons with mental illnesses, there is a need to focus on preventive, curative and other dimensions of mental health. The National Human Rights Commission is of the view that institutionalization alone is not the answer but it is essential to move towards community-based treatment and social rehabilitation.

The health care system in general and in particular, mental health sector is not up to the mark. There are a number of serious deficiencies. For a country of over one billion, we have only about 37 to 40 mental hospitals in the Government sector which are not enough. There is a huge human resources gap in the mental health sector, particularly psychiatrists, clinical psychologists, psychiatric nurses and psychiatric social workers. There is a need to ensure that the capacity of existing hospitals be enhanced to accommodate indoor as well as outdoor patients. All hospitals must have adequate number of psychiatrists, clinical psychologists and psychiatric nurses. They must also have drugs for mental illnesses in adequate quantity.

While the above touches upon medical aspects there is a need to recognize the social aspect as well. The joint family has disintegrated leaving nuclear families and individuals under tremendous pressure and strain.

The authorities incharge of mental hospitals can play greater role. There is a need to ensure that only genuine cases of persons with mental illnesses are admitted in hospitals. Often family members or relatives dump unwanted persons in these hospitals to get rid off them. At another level rehabilitation of cured mentally ill persons is also a serious human rights issue. As a result of social stigma many families are not willing to accept cured mentally ill persons back into their fold, thus resulting in their continued stay in the

mental hospitals. Rehabilitation efforts, therefore, assume great importance. There is a need to study the job market, analyse trends and provide appropriate training and skills to enable rehabilitation of mentally ill persons.

The participation of civil society organizations in mental health care is not up to the mark. We need to involve them in construction of half way homes and also in community out-reach work. NGOs themselves must come forward to undertake this in the interest of protection and promotion of human rights.

The Declaration on the Rights of Mentally Retarded Persons (1971) and the Declaration on the Rights of Disabled Persons (1975), began the process of establishing international minimum standards for the treatment of persons with mental disabilities.

Article 12 of the International Covenant on Economic, Social and Cultural Rights 1966 recognises the enjoyment of **the highest attainable standard of physical and mental health as the right of every human being**. India is party to it and has to respect and fulfill all the obligations flowing therefrom. General Comment No. 14 of the Committee on Economic Social and Cultural Rights on the right to health discusses the core obligations and elements of the right: **availability, accessibility, acceptability and quality**. Non-discrimination is a key element of accessibility and the Committee highlighted the accessibility needs of vulnerable groups, including persons with disabilities.

The Declaration of Caracas adopted by the Pan American Health Organization stated that mental health systems relying exclusively on psychiatric hospitals "isolate patients from their natural environment generating greater social disability" and called on states to "promote alternative service models that are community-based and integrated into social and health care networks."

The UN Principles for the protection of persons with mental illness and the improvement of mental health care, 1991 assert that

- "1. All persons have the right to the best available mental health care, which shall be part of the health and social care system.
2. All persons with a mental illness, or who are being treated as such persons, **shall be treated with humanity and respect for the inherent dignity** of the human person.
3. All persons with a mental illness, or who are being treated as such persons, have the right to protection from economic, sexual and other forms of exploitation, physical or other abuse and degrading treatment.

4. There shall be no discrimination on the grounds of mental illness...". In addition, the UN Principles also provide that Every person with a mental illness shall have the right to exercise all civil, political, economic, social and cultural rights..".

The World Health Report (2001) advocates, for instance, recognition of the interconnectedness between physical and mental health. It calls for an integration of mental health care into the primary health care system and makes a pitch for a public health approach. Emphasizing the burden of mental and behavioral disorders, it advocates an altered paradigm of care. The principles of care pertain to diagnosis and intervention, continuity of care, provision of a wide range of services, partnerships with patients and families, the involvement of the local community and integration into primary health care. Pharmacotherapy, psychotherapy, psychosocial rehabilitation, vocational rehabilitation and employment, and housing have been identified as the ingredients of care relevant to those experiencing an absence of mental health.

In its efforts to monitor 'Quality Assurance in Mental Health', the Commission organized a two-day meeting of State Health Secretaries and Mental Health Authorities on May 8th & 9th at NIMHANS, Bangalore. In this Conference, serious concerns were expressed over the fact that Psychiatry has been removed from the undergraduate medical curriculum. The Conference, therefore, recommended introducing a course of Psychiatry and behavioral Science.

The Commission, therefore, took up the matter with the Ministry of Health and Family Welfare which later on informed the Commission that in the meeting of the Central Mental Health Authority held on 26th February, 2008, it has been decided that proposal be prepared for introduction of compulsory examination in Psychiatry as part of medicine examination in both theory and clinical examination. It was also informed that the matter would be taken up with MCI.

The Commission examined the matter in consultation with experts in the field. The Commission has noted that although MCI syllabus contains Psychiatry as one of the essential subjects however, there is only one short note question in theory paper and there is none in clinicals. Unless there are 2 or 3 questions and atleast a short case in clinical, neither the student nor the teachers would take any serious interest in the topic. As a result the doctors produced will be ill equipped in the practice of psychiatry.

In light of lack of manpower in the field of mental health, it is essential that the manpower available is properly equipped to deal with problems in Mental

Health. The Commission, therefore, wants appropriate changes in the psychiatry examination in the undergraduate curriculum of medicine for greater effectiveness.

Following the Commission's monitoring, significant improvements have been noticed in the working of these institutions. Admission and discharge have been streamlined in accordance with the provision of the Mental Health Act, 1987 and the UN principles for the protection of persons with mental illness and the improvement of mental health care. The emphasis laid by the Commission on clear shift from custodial confinement to treatment and care is now visible in the functioning of these institutions and the aspect of community mental health care is receiving greater attention than before. Despite the efforts of the Commission to have all State Governments act on the basis of the report prepared for it on Quality Assurance in Mental Hospitals, much remains to be done for the proper care of those suffering mental disabilities.

Cost-effective treatments exist for most disorders and, if correctly applied, could enable most patients to become functioning members of society. Barriers to effective treatment of mental illness include lack of recognition of the seriousness of mental illness and lack of understanding about the benefits of services. Policy makers, insurance companies, health and labour policies, and the public at large - all discriminate between physical and mental problems. Most middle and low-income countries devote less than 1% of their health expenditure to mental health¹. Consequently mental health policies, legislation, community care facilities, and treatments for people with mental illness are not given the priority they deserve.

NHRC has been deeply concerned with the harrowing conditions prevailing in the mental hospitals all over the country. Many of them function as custodial rather than therapeutic institutions.

The most notable intervention of the NHRC in mental health has been a project on 'Quality Assurance in Mental Health' launched in 1997. The main aim of the project was to analyze the conditions generally prevailing in Government run Mental Hospitals in various parts of the country with reference to infrastructure, patient care, admission, discharge and appeal procedure, rehabilitation facilities, client satisfaction and morale of the staff. The Report made comprehensive recommendations in respect of each of the 37 Government run Mental Hospitals along with useful suggestions for action at the State level and the same were sent to concerned authorities in the Centre and in States. The Commission urged them to take all necessary steps to remove the gross inadequacy of mental health care facilities in the country

¹ http://www.who.int/mental_health/en/index.html

and to provide satisfactory schemes and funds for the rehabilitation of mentally ill persons.

The affairs of the Mental Hospitals at Ranchi, Agra and Gwalior had come under the scrutiny of the Supreme Court of India through a number of PILs filed by public-spirited activists in 80s and 90s. The Supreme Court laid down the following aims and objectives for the Institution:

- i. Developing advance diagnostic and therapeutic facilities.
- ii. Improving social and occupational rehabilitation facilities.
- iii. Starting post-Graduate Training Courses in the field of Psychiatry Clinical Psychology, Psychiatric social work and Psychiatric nursing.
- iv. Expanding of Mental Health services at community level.
- v. Conducting short-term courses for Medical and Paramedical personnel.
- vi. Undertaking research in the field of Behavioural and Neuro Sciences.

The essence of all these recommendations is that psychiatric patients should be treated with dignity and respect. As far as possible, their consent must be taken for any treatment or hospital admission. If such patients are not in a position to give their consent, close family members should be consulted, but the interest of the patient must remain paramount. Physical restraints, if required, must be minimum and for a temporary period under close medical supervision. The use of chains or other degrading devices to restrict the patient should have no place in modern psychiatry. The patient should be kept as involuntary admission in a psychiatric hospital for the minimum period necessary. There must be adequate provisions for the right to appeal against forcible detention.

But unfortunately, the pace of implementation of the recommendations of the Supreme Court or the National Human Rights Commission with regard to mental health has been tardy and painfully slow. As a result, the condition of mental patients in the hospitals are still deteriorating and even cured patients are still languishing in the mental hospitals of the country without any fault of their own. Besides satisfying basic needs of mentally ill persons in terms of food, sanitation, infrastructure etc. there is a need for rehabilitation of the Long Stay Patients (LSPs) by evolving a separate scheme for LSPs. In addition, there is a need to involve NGOs in developing occupational therapy for the patients.

There is a need for recognition of common mental disorders in training curricula of all health personnel and ensure availability of essential drugs in all health care settings. The Commission wishes to draw the attention of all

the concerned state governments about the Supreme Court Judgments with regard to quality assurance in mental hospitals. If these are not implemented, the Commission wishes to categorically point out that it would amount to contempt with attendant consequences. The State Governments and in particular the concerned authorities have to keep them in view and implement the Supreme Court and NHRC's orders in this vital area. There is a need to shift from custodial care approach to therapeutic care approach for patients in mental hospitals. Emphasis should be on voluntary admissions, building of halfway homes, involvement of civil society and vocational rehabilitation. In respect of those who are not accepted by their families even after they are cured, compensation must be collected from the parents or family members for their rehabilitation and it should be given to such persons. In the case of special problems of those mentally ill persons who have recovered but are not accepted by their family members and relations, they should be maintained at the cost of the State and such a provision exists in chapter VIII (section 78) of the Mental Health Act.

All people including those with mental illnesses have the right to human dignity which must be protected at all costs and violation of their rights stopped.

The Prime Minister Dr. Man Mohan Singh has asserted that his Government would accord top priority to 'health and education'. Initiatives taken in pursuance must also cover mental health sector. Often we see a great deal of attention paid to tuberculosis, polio eradication, HIV/AIDS while mental health sector does not receive the priority it deserves.

It is imperative that the mentally ill persons receive good quality mental health care and humane living conditions not only in institutions but also in their homes.

Importance of R & D

Research and Development (R & D) is an important area but often neglected. NIMHANS which has been in the field for long has evolved many innovative solutions through research & development which need to be shared. Each mental hospital must strengthen their own R&D efforts. There is a need to disseminate knowledge and progress made by mental hospitals elsewhere in the world. There is a need to prevent inhuman treatment by other individuals and society of victims of mental illness. There is need to adopt humane approach to those individuals lodged in mental hospitals to instil confidence amongst them and provide them with medical treatment. They are as important citizens as anyone else. Each hospital must draw up an action plan and each State Government must also draw up State wise action plan for protecting human rights of mentally ill persons.

*Emerging Techniques in Forensic Sciences for Contemporary Criminal Investigation**

Crime Investigations have been a part of the civilized society's approach to punish those who violate the established laws and customs. Ever since the investigations started to be conducted in accordance with the codified laws it become an important requirement that the evidence produced to charge or punish the criminals should be credible. For long the credibility of evidence depended mostly on eye-witnesses or confessions of those who felt the prick of their conscience.

As the crime increased and its manifestations diversified the criminals also became wise and committed, the crimes in a manner that leaves minimum traces of evidence. Even their post crime conduct is devoted to destroying all evidence that would implicate them. It was an age-old practice to adduce evidence of those who have seen the crime happening. There was little scientific evidence corroborating the evidence of the eye-witnesses.

Finger Printing was the first scientific method that revolutionized crime investigations. Later the advancements in science and technology and also in the medical science were used to great advantage in crime investigations. All these new developments were used with a view to improving quality of evidence.

The development of Forensic Science institutions in India, during the British rule, was confined to the isolated attempts to establish institutions for specific problems. Chemical Examiners Laboratories were thus set up at Madras (1849), Calcutta (1853), Agra (1864) and Bombay (1870). The real progress of Forensic Science Laboratory was established in Calcutta in 1952, followed by another, in Bombay in 1958. The progress quickened further in sixties and we now have 20 State Forensic Science Laboratories, 31 Regional Forensic Science Laboratories in the States, besides four Central Forensic Science Laboratories and three Government Examiner of Questioned Document Laboratories under the Central Government. National Institute of Criminology and Forensic Science, New Delhi caters to the needs of in-service training of Forensic Scientists, police officers and judiciary in India. The total Forensic Science modernization in the country is co-ordinated by the Directorate of Forensic Science, Ministry of Home Affairs, New Delhi.

** Inaugural Speech in National Seminar held on 27th March, 2004 at Hyderabad*

Today we have crimes of all sorts like economic crime, bank frauds, cyber crimes, terrorism, etc. Not only that criminals who perpetrate these crimes are educated and knowledgeable people, they are quite often found to be experts in certain fields. It is therefore necessary that in order to punish these modern day criminals scientific investigation are the need of the hour.

The Forensic Science is an integral part of "criminal justice delivery system" and hence should be treated as an important "societal mission" rather than a typical run-of-the-mill Government activity. The philosophy behind the structure of Forensic Science set up and its management should be such that its each member work with a 'missionary zeal', which has to be enthused, inculcated and fostered by the Government. In this branch of science, the highest order of excellence is expected by the humanity. If this premise is agreed to, the structure is ready, it should continuously be fostered with utmost attention by inputting various innovative ideas put forth only by the scientists of very high caliber. For improving quality of investigation as well as the quality of evidence, it is necessary that forensic science is developed fully. We have seen how forensic science has helped solve most complicated cores of cyber crime and economic offences.

Criminal Investigation must aim at making punishment more certain rather than severe. Neither brutality nor severity but it is the certainty that makes punishment an effective deterrent. In such a situation, the forensic science can offer objective and reliable evidence.

It is not that the new scientific aids and forensic science which are important in themselves but attitudinal changes are quite significant. Unless the investigator has a scientific temperament and modern outlook he will not be able to unravel the truth. It is the need of the hour that all police investigators are trained in and exposed to the latest techniques in scientific investigations. In this area, police training institutions can play an important role.

I foresee another added advantage in scientific investigation and that is if the quality of evidence is improved with the help of scientific aids it will help accelerate the pace of criminal trials. The criminal justice system which has all along relied only on eye-witnesses, forensic science, etc. would be able to deliver faster and better results if scientific and credible evidence is adduced. Of course, while making use of the scientific evidence and new techniques in forensic science, one has to take full care that the evidence is credible and also such as can stand scrutiny of law. It has to be always kept in mind the science is also not perfect. It is ever growing and evolving process. Therefore it is important only such evidence, which comes from experts, recognized under the law.

The job of a Forensic expert is only half done after the scientific test have been completed and the written report is submitted. The other half is to present the results of the tests in a form that is admissible in the Courts of Law and in manner that is understandable by the judiciary. The presentation of testimony in the Courts of Law is the culmination of the work performed by a forensic scientist at the scene of crime as well as in the Laboratory. When an expert testifies in the Court of Law, the persons who generally have little or no scientific background evaluate the expert and his testimony. It is observed that the lawyers are more inclined to scrutinize an expert in respect of his trial credibility rather than the professional competence. Such cross examination runs from trial to a mockery. To preserve sanctity of human rights, it may not be a distant thinking of employing Forensic Science specialists in the court of law for investigation monitoring the optimum utilization of forensic tools and techniques in the crime investigation process and for better understanding and evaluation of the forensic reports in every investigation and judicial trial.

Today while a lot has been achieved in upgrading the forensic science skills, a lot remains to be done. In a country of the size of India, there are only 5 Central Forensic Science Laboratories and 20 State Forensic Science Laboratories. The pendency in all these forensic science laboratories is usefully high. If we wish to assure a better criminal justice system, the need for scientific investigations and faster delivery of justice will have to be acknowledged. This goal can be achieved by adding to the number of Forensic Science Laboratories. For this purpose funds are to be set apart by the State Government and the Central Government. I am sure this realization has already dawned and steps in this direction are being taken. Those police officers who are engaged in the task of development of forensic science laboratories will have to play a very important role not only by acquainting themselves with latest techniques developed within the country but also outside. There is no doubt about availability of the talent within the country. What is required is to tap it and provide opportunities and resources.

Traditional investigation done in the past were mostly based on available physical evidence like weapon of offence, pieces of clothes, ammunition, etc. There were no scientific aids available to gather evidence which was latent and invisible. The present day technology and science has made it possible to make the invisible visible and the latent more apparent. It is in this area that the investigators have to be trained in developing country a lot has been done in this field.

Investigation is the starting point in the criminal justice system. It is the quest for truth. If the investigation has been done on scientific lines and quality of evidence is improved, the criminal justice system will also register a qualitative change.

*Review Meeting on Mental Health**

The National Human Rights Commission is mandated by the Supreme Court of India to monitor the functioning of the mental hospitals in the country. This mandate is outcome of the number of public interest litigations filed by activists in the 1980 and 90s. Following the directions of the Supreme Court, the National Human Rights Commission expanded the scope of its supervision and has included all the mental hospitals in the country - besides Ranchi, Agra and Gwalior in its programme of monitoring.

The Supreme Court has laid down the following aims and objectives for supervising all the mental care hospitals. These are:

- i) Developing advance diagnostic and therapeutic facilities'
- ii) Improving social and occupational rehabilitation facilities;
- iii) Starting postgraduate training courses in the field of psychiatry, clinical psychiatry, psychiatric social work and psychiatric nursing.
- iv) Expanding of mental health services at community level.
- v) Conducting short-term courses for medical and para-medical personnel.
- vi) Undertaking research in the field of behavioural and neuro sciences.

The spirit behind all these recommendations is that the mental care treatment in the country should be upgraded, modernised and that the psychiatric patients are treated with same dignity and respect as other patients.

The above directions of the Supreme Court of India are quite in consonance with the Declaration of Rights of Mentally Retarded persons (1971) and the Declaration on the Rights of Disabled Persons (1975) aiming at establishing international minimum standards for the treatment of persons with mental disabilities. Article 12 of the International Covenant on Economic, Social and Cultural Rights, 1966 emphasises the enjoyment of the highest attainable standard of physical and mental health as the right of every human being. India is party to it and has, therefore, to respect and fulfil all the obligations flowing there from. The core obligations and elements of right to health are **availability, accessibility, acceptability and quality**. Non-discrimination is the key element of accessibility which should be especially directed towards vulnerable groups and persons with mental disabilities.

**Northern-Eastern Regional Meeting held on 11th February, 2010 at Guwahati*

In this context, we should also not forget the famous observation of the Alma Ata Conference on health i.e. put the people at the centre of health care irrespective of the ailments - including mental disorders --- they are suffering from.

The traditional approach of mental health care has been hospital oriented. But with the passage of time and also with the increase in number of persons with psychiatric disorders, it is now being advocated that hospital based treatment has to be effectively combined with community based strategies which in other words means that the patients having mental disorders should be extended care and treatment, as far as possible, at their place of habitat. This approach has already gained widespread acceptability and there is a growing involvement of civil society in the mental health care.

National Human Rights Commission has been advocating UN principles for protection of persons with mental illness and the improvement of health care that persons with mental illness shall be treated with humanity and respect and will be freed from economic, sexual and other forms of exploitation, and physical and other degrading treatment.

In the context of this new approach to mental health care, it has become necessary that quality assurance in mental health care should receive prompt and adequate attention. NHRC organised a two-day meeting of State Health Secretaries and mental health authorities on May 8 and 9, 2009 at NIMHANS, Bangalore. In this Conference, serious issues relating to psychiatric treatment were discussed and concern was expressed that updated courses in psychiatry and behavioural sciences should be introduced in the training institutes. The Commission also took up this with the Ministry of Health and Family Welfare which later informed the Commission that in the meeting of Central mental health authorities held on 26th February 2008, it was decided that proposal to be prepared for introduction of compulsory examination in psychiatry as part of medicine examination in both theory and clinical examination. It also informed that the matter would be taken up with MCI.

Following the Commission's monitoring, significant improvements have been noticed in the working of mental health institutions. Admission and discharge have been streamlined in accordance with the provisions of the Mental Health Act, 1977 and the UN principles for the protection of persons with mental illness and improvement of mental health care. The Commission's emphasis on shift from custodial confinement to treatment and care is now visible in the functioning of the institutions that so far have been inspected and the aspect of community mental health care is receiving greater attention than before.

But let us not be complacent. Despite the efforts of the Commission to have all State Governments act on the basis of reports prepared for it on quality assurance in mental hospitals much remains to be done for the proper care of those suffering from mental disabilities.

Coming to the adequacy of mental health institutions/hospitals in the country, it is well known that their number is most inadequate and infrastructure available to them is far from satisfactory. In a country of over 1 billion people there are only about 43 mental hospitals. This is awfully inadequate especially in view of the fact that the number of persons suffering from mental disorders is steadily growing.

This Conference in the North Eastern regions of India holds special significance in the context of what has been stated just now. Having served in this regions for quite some time, I can say that the public health care in this region needs considerable improvement though of course the existing hospitals at Tejpur, Guwahati Medical College, Guwahati, Silchar Medical College, Silchar, Meghalaya Institute of Mental Health and Neuro Sciences, Shillong, Modern Psychiatric Hospital, Agartala, Department of Psychiatry, RIMS, Manipur, Mental Hospital, Kohima and Sikkim Manipal Institute of Medical Sciences, Gangtok are engaged in research and development work in improving the mental treatment skills. The inaccessibility of certain geographic areas in the Northeast region makes the task of extending both hospitals based and community based proposition a serious roadblock. It is in this area the efforts of the authorities should be directed and again perhaps in this area that community based approach, more than anywhere else can yield significant results. The first step in this direction is to have proximate figures of patients in need of mental health care. While fairly acceptable figures are available at the national level, the same cannot be said to be true of the North Eastern region. It is estimated that there are 2 crore people in our country that are in need of treatment for serious mental disorder and above 5 crore people who are affected by mental disorders ranging from stress related manifestations to total mental disorders. It is a grim scenario when contrasted with insignificant number of mental health hospitals or mental health centres that are available in the country. It has therefore become necessary that a sound database is available as a basis for devising strategies to tackle the growing problem of mental health care in the country. I would, therefore take this opportunity to exhort all participants coming from this regions to undertake a survey of the prevalence of mental health sickness in the region as this surely is an effective way of tackling the problem.

Since health is a State subject, we are here to evaluate that has been done or being done in the Northeastern region in the sphere of mental health services. This assessment is to be carried out in the light of specific directions of the Supreme Court which I have already outlined. The experts and heads of

institutions coming from mental health institutes of this region are requested to enlighten this conference as to what is the level of quality treatment for mental patients in this region.

A common problem that affects all the institutes is the gap between infrastructural needs, manpower resources and the existing conditions. This gap has to be carefully evaluated both by the administrative ministries/ departments and Medical Councils of both the Central Government and the State Governments. In all the regional reviews the NHRC has been stressing this aspect. Often it is pointed out that health care is seriously handicapped by lack of manpower resources. At each Regional Conference we have urged the Medical Council that syllabus for all medical studies should include compulsory component of mental health care. This is with a view to enabling the Medicos not only to treat patients having no mental disorder but also those who are suffering from them.

It is widely acknowledged the world over and by the WHO that setting up requisite number of mental health care centres is neither feasible nor, as the experts say, is it desirable. The focus has shifted, as I have already mentioned, to setting up community based centres. Of course, the existing mental health centres should have adequate number of trained staff, sufficient stock of drugs for curing mental illnesses. I happened to visit a community-based centre in Jharkhand and I was impressed by the work done in this rural hamlet near Ranchi. This programme is being run by RINPAS and some highly dedicated volunteers from rural areas. Generous help is being extended by RINPAS and high level of spirited young boys and girls is an example of laudable endeavour worthy of replication all over the country.

NHRC will continue its monitoring and therefore seeks your cooperation to upgrade the skills of mental hospitals both in terms of providing latest medicines and expanding indoor and outdoor patient's treatment. The NHRC has fully endorsed the shift from custodial confinement to treatment and care involving community. It is clearly in favour of National Health Policy of 2002 which aptly sums up the programme as follows:

The network of decentralised mental health services for ameliorating the more common categories of disorders is envisaged. The programme outlines for such a disease would involve the diagnosis of common therapeutic practices by general duty medical staff. In regard to mental health institutions for indoor treatment of patients the policy envisages the upgrading of physical infrastructure of such institutions at Central Government expenses so as to secure the human rights of those vulnerable segments of society.

Our recommendations with regard to how patient care, admission, discharge, rehabilitation facilities and moral of the staff etc have already been communicated to the authorities concerned both to the States and the Centre.

We now come to a very serious aspect of mental health care and that is rehabilitation of long stay patients. It is an urgent issue which the Conference must address today. To my mind, it is a dire need and a challenge both to the State and to the civil society engaged in this task. Before I conclude, I feel I owe it to this Conference to inform them that implementation of the Commission's recommendations and those of the Supreme Court of India has been tardy and painfully slow. There are institutions where patients have been found languishing in mental hospitals without any fault of their own and rehabilitation of patients is in utter neglect. May I remind this Conference that the Commission is entitled to assume those States/authorities who have failed to comply with the directions of the Supreme Court are committing contempt of the Honourable Supreme Court. The Commission therefore wishes to draw the attention of the States concerned about the need to assure quality treatment in mental health.

Research and development is an accepted principle for achieving improvement and progress. I am constrained to say that this area has not received the attention and urgency that is required to face the challenge of mental health problems in the country. Some institutes like NIMHANS have no doubt played a leadership role by evolving many innovative solutions through research and development which need to be shared. Each mental hospital must strengthen its own R&D facilities and come out with effective health care systems including diagnosis, care and treatment. The underlying principle that should guide all efforts in the sphere of mental health care is that "every life and equal value".

Finally, there is a need for mental health professionals to remain sensitive to changing values and attitudes accompanying social, economic upliftment programme. They should exercise their democratic rights to influence public opinion in this regard. It is also pertinent that no model is sacrosanct. Our programmes should be flexible enough to adjust to such changes that become need of the time. There are, however, some values that are eternal and should not be given up. Those who are weak and powerless should be supported and helped by those who live in a manner that raises their self-esteem and adds to their happiness.

Health Awareness Programme for The Elderly in Collaboration with Help-Age India *

Before I begin, I would, first and foremost, on behalf of the National Human Rights Commission like to express my gratitude to HelpAge India for collaborating with the Commission in the organisation of this Health Awareness Week that commenced on 26th of February and is being concluded today. I understand from the NHRC representative present here as well as from HelpAge India team that this Health Awareness Week had a tremendous response as every day around 200 elderly people came to listen to the lectures that were especially organized for them on various health related aspects which in one way or the other concerns them.

The Commission had undertaken this initiative for senior citizens last year in collaboration with HelpAge India at New Delhi with the sole aim of spreading awareness about different kinds of health issues which afflict the elderly population by and large so that they could guard themselves against those or manage them on their own with the knowledge gained from different resource persons rather than be dependent on the doctors for their treatment. The Commission strongly feels that such health literacy programmes are an important instrument in protecting and promoting health rights of the elderly and it enables them to take care of themselves rather than being dependent on the paternalistic medical approach of treatment.

Ladies and Gentlemen, it is acknowledged that longevity is a universal human aspiration. Studies in the history of Gerontology have shown that people across the globe have always shown great interest in long life. And, why not? History is replete with innumerable examples whereby ageing has been associated with wisdom and possession of "golden mean". Japan calls its aged as 'Otashiyogi' which means honourable person. Greeks and Romans too held their aged in great esteem. This was true of the Indian society as well where older people were accorded a place of respect, honour, and importance in the family. The traditional culture of India which stands on the matrix of old Vedic civilization, considered old age as one of the stages of human development wherein a person attains maturity, wisdom, economic and social stability that would lead to social recognition and emotional fulfillment and ultimately the achievement of salvations which is the supreme aim of human life. Right now, the two examples which instantaneously come to my mind are that of Mahatma Gandhi and Mother Tereasa. Both of

**on 2nd March, 2007 at Mani Nagar, Ahmedabad*

them were epitomes in their own way who worked zealously without considering age to be a hindrance in their way. Mother Teresa, we all know till her last breath dedicated herself to the cause of the infirm, homeless and aged people.

Ladies and Gentlemen, you must have been told during the course of this programme that in psycho-social parlance, 'age' is not a chronological count of years but a state of mind. Old age is a natural phenomenon that begins from the very day we are born and this process is accentuated by stresses and strains of life. Besides, all of you would agree that chronological age is a poor indicator of functional ability. I will support this statement with an example, and I am sure that you would agree with it. For instance, an 80 years old person may have the ability of working like a 40 years old person but it is very rare to come across a 40 years old person who may have the wisdom of an elderly person. Although, there is no definite criteria fixed by the biologists to consider a person old, for administrative purpose, each country fixes an age limit that defines a person as such. The Census of India, as we all know, has adopted the age of 60 for classifying a person as old. In many societies, old age is also determined by the cultural norms prevailing in a particular society. For example, in India, men or women are considered to be old when their children are married.

The point, I am trying to arrive at is that ageing of population is a universal feature. If we look at the Census figures from the year 1951 to 2001 for different age categories, the life span of the people has been increasing but those in the range of 0 to 6 years is decreasing. This demographic transition in the population structure of India, on the one hand, is due to the result of better knowledge of preventive and curative health care, and on the other hand, due to the use of advanced knowledge and health technologies. Increased life expectancy, nonetheless, has contributed to an increase in the population of 60 and above.

This reality highlights the necessity to provide social services and other benefits to senior citizens. Of late, with the changing values, growing individualism and rising aspirations of the younger people due to the impact of education, urbanization, westernization and industrialization, the elderly people are in a vulnerable position in their families and the community. The position of a single person, particularly a female is more vulnerable in old age. The fast pace of social change, as we all know, accentuates the inter-generational differences in values and life styles. All these and other factors have undermined the status, care and protection of the elderly persons that was earlier taken care of by the joint family, the kinship group and the community institutions that with the passage of time, are themselves in the process of disintegration. All this has necessitated the provision of

substitutive safety net and a provision of social services for the elderly population.

The well being of elderly persons has been mandated in the Constitution of India. There is also a National Policy on Older Persons that assures the older persons that their concerns are the national concerns and its aim is to strengthen a legitimate place for them in the society. The Policy visualizes that the State will extend support in the areas of financial security, health care, shelter, welfare, protection against abuse and exploitation, and opportunities for development of elderly person's potential. The Policy also aims to see that special attention is given to them in the rural areas as well as to elderly women. It also emphasises active and productive involvement of elderly persons after 60 years of age and recognizes that the elderly are a resource and believes in their empowerment.

But let us remind ourselves that Health Service schemes will not deliver if they remain completely under the control of the Government or the bureaucracy. Voluntary endeavour within the health service administration should be encouraged and accorded utmost importance. This will be the human contribution to any health programme.

Broadly speaking, the problems of senior citizens in India are mainly related to health care and nutrition, financial security, shelter, welfare, protection of life and property and emotional security. All these are inter-related. Since our focus here is on HEALTH, I would confine myself to that aspect only.

The health needs of the elderly are important not only because their numbers are increasing but also because if this aspect were taken care of, many of their problems would be solved. We all know of the famous adage - 'Prevention is Better than Cure'. Since ageing is inevitable and keeping this fact in mind if we all start taking care of our day-to-day health problems by adhering to a disciplined life as well as diet, all of us would have overcome most of our health-related problems. And the aim of this Health Awareness Week was precisely that.

Self-care has been one of the greatest advances in health care today. I say this because health care is no longer a prescriptive exercise where doctors assume a paternalistic role and say you have to do this or you don't have to do this. It is a partnership exercise. One of the effective strategies that can be employed for promoting health care of the senior citizens is to adopt "Partnership in Health" approach. And this partnership should be of the most understanding and profound variety. It should not be confined to a particular geographical jurisdiction. Its reach should be far and wide. Realising this and the fact that, today, we are living in the 'One World', this strategy should be forged between nations and nations. This will make it possible that no health care will be beyond our reach. Dr. K.S. Sanjivi, who

talked and wrote extensively on the subject of community health has this to say about the partnership approach.

"Doctors of every category should show perfect understanding and spirit of co-operation. This applies not only to the specialists and the general practitioners trained in modern medicine, but to the relationship between doctors practising modern medicine and those practicing indigenous systems of medicine. Rightly or wrongly, we have to grant that in India the indigenous systems of medicine are thriving and do have the support of the governments in the country. An effort, therefore, should be made to evolve, by operational research, a practical method of integration of the two systems with the essential assurance that no patient, regardless of his economic status, will ever suffer".

'Nobody knows your body better than you do'. In case you do not know, make an effort to know your body/system. Nothing is late in life. Try to know what suits your body and what does not suit you. What exercise suits you and which do not suit you? Advantage of balanced life style cannot be over emphasized and believe me there is nothing that can stop you from conquering the world. Those of you who came here must have already started imbibing the knowledge that was imparted here. We would all be doing a great service to community if we disseminate the knowledge gained among our friends, other well-wishers and family members who due to some reason could not make it to this Conference.

As I have already said that the first Health Awareness Week was organized at New Delhi last year. Taking a clue from the Health Awareness Week that was organized in Delhi, this time, however, we would be having a Special Health Camp for screening blood pressure, blood sugar after the Valedictory Session. My humble request to all of you to kindly avail this opportunity.

Before I conclude, I would like to share a piece of good news with you, though most of you would already be aware of it. This relates to the clearance given by the Cabinet to the proposed Maintenance and Welfare of Parents and Senior Citizens Bill, 2006. This Bill makes supporting of old parents mandatory, and provides for jail and fine for abandoning them.

With these words, I would like to conclude my valedictory address. I once again express my gratitude to all the senior citizens present on the occasion, to the HelpAge India and to the medical experts who have willingly come forward to interact with you.

*Valedictory Speech on Health Awareness Week**

After all that has been said so far, I feel that I can confine myself to a short concluding speech.

Following the intensive discussion we have come to learn from the experts the efforts that has taken place and the ladder to prevent Heart attacks and Strokes.

All we all know, ageing is a natural phenomenon nonetheless, the elderly needs consideration. There is peculiar setback associated with age that needs constant attention. Emotionally, they need love and compassion for the reason that there is withdrawing family support, physically and mentally health can be chronic and manifold in nature.

Enhanced longevity has contributed to an increase in the number in the number of persons aged 60 and above. From 57 million in 1991, the number is expected to go up to 100 million in 2013. It is expected that 21 percent of the Indian population will be 60 + in the year 2050.

In India the widespread causes for death in the elderly are bronchitis, pneumonia, ischaemic heart disease, stroke, cancer and tuberculosis. For this reason, there is a need of an essential role and support from the various sectors to improve on the functioning of the health sector.

Article 41 of the Constitution of India directs the State, within the limits of its economic capacity and development, to make effective provisions for securing the right to public assistance in cases of old age. Under the National Policy of Older Persons, financial security, health care and nutrition, shelter, welfare, protection of life and property are principal areas of concern.

The Commission's effort in public health and human rights were guided by the realisation that the right to life with human dignity, enshrined in the Constitution, must result in strengthening of measures to ensure that the people of this country, and particularly those belonging to economically disadvantaged section of the society, have access to better and more comprehensive health facilities.

With these words, on behalf of the Chairperson, Member and the NHRC Officials I would like to thank each one of you for your vigorous participation in the Health Awareness Week.

**organised in New Delhi 20th March, 2006 to 24th March, 2006*

*Human Rights and Related Environmental Issues**

Human existence and human civilization have vitally depended on environment for their survival and advancement. All religions and ancient texts of the world have recognized this truth and paid homage to nature. The famous "Shanti Path of the Hindu religion prays for peace and preservation of the environment when it is chanted "Shanti Aushdaya Shanti Vanaspatiya".

Man is both, the creator and the moulder of environment, which gives physical sustenance and affords the opportunity for intellectual, social and spiritual growth. Both the aspects of man's environment, the natural and man made are essential to his stability and to the enjoyment of basic human right, and, in fact the right to life itself.

There is an ancient proverb vis-à-vis environment: it is the duty of mankind being the trustee of the mother earth to defend its ecological integrity failing which the nature will defend itself. Environmental order is part of the cosmic order of the planet since the time immemorial.

It is only through such an understanding that claims involving the environment can be accommodated within the broad rubric of human rights.

Last century has witnessed degradation of environment during two world wars and even thereafter; so much so, the international community got alarmed about the crises and organized three global efforts ranging from Stockholm to Rio to Johannesburg in order to set things right. Many things have been done, however much remains to be done, especially with reference to the developing world including India.

In present times, agriculture, industrialization, building of infrastructure and urbanization are among the main factors, which have become chief causes of environmental degradation or the ecology. While, in the context of eliminating poverty, raising the levels of standards of living, improving public health etc. development is the need of the hour, the sustainable development can't ignore the basic needs of food, shelter, clothing, water, health and education. The given process of growth that does not lead to their fulfillment or, even, worse disrupts them --- is a travesty of the idea of development. No doubt, science and technology are playing a vital role in ushering

**Two-Days National Seminar held on 24th January, 2007 at Amity University, Uttar Pradesh, Noida*

environmental transformations. It is acknowledged that no accelerated pace in development is possible without employing science and technology, it is necessary that their use does not lead to human misery and violations of human rights or threaten human existence itself. A right balance, therefore, is necessary.

In order to maintain this balance, the sustainable development has to be on the basis of a holistic view of all interests. In this regard, the advice given by Hon'ble Justice J.S. Verma is very relevant: "the real challenge is to ensure that through modern development in science and technology, it does not acquire the arrogance and be the carrier of new kinds of human exploitation and miseries. It is needed to ensure that new science and technology become responsive and get dedicated to the cause of humanity and human development becoming an effective tool to spread humanism".

The mega projects that are being launched to construct Dams, Power Generation Plants, industries have, especially in developing countries ignored the adverse impact on human existence that they have. The worsening sanitation in urban areas, air pollution and diseases, biological contaminants mixed with chemical toxins from the industrial installations, mindless deforestation have seriously endangered the human existence.

The agriculture has been the main source of livelihood from ancient times in India. It has also been seriously threatened by the new methods and techniques employed to the advance agriculture. Government owned research shows that raw agricultural commodities from milk to vegetables - are often contaminated with pesticides. The legislation related to regulation of pesticides in our agricultural commodities is lax and not enforced. In order to save this sector for human existence, an agenda for reform has to be put in place to ensure that pesticides and toxins do not endanger the agricultural produce on which we all depend. Much havoc is caused by humans as well. Mindless deforestation, destruction of fauna and flora, unplanned construction of dams and power installations, have resulted in natural furies. I have seen serious floods and soil erosions resulting from thoughtless interference with the course of rivers and felling of trees and extinction of wild life. Their impact on the lives of the people and the animal world has always been disastrous. It can only be thwarted by the combined efforts of civil society and the governments.

Today's culture of consumerism has also spawned serious environmental problems like disposal of garbage in urban areas. It is the direct consequence of total disregard of civic norms leading not only to the contamination of the environment but also to outbreaks of serious diseases and afflictions endangering human life.

The judiciary in India has played a vital role in interpreting the existing legislation and also setting up guidelines with regard to preservation of environment. Way back in mid 80s, since the epoch making judgement of Supreme Court of India in *Rural Litigation and Entitlement Kendra Versus State of Uttar Pradesh* (1985), there is a series of case laws making a wide construction of the provisions for protection and improvement of environment and safeguarding of forests and wildlife under Article 48 (A) of the Constitution and thus clubbing them with the provision of right to life in Article 21. The judiciary has thus followed the profound vision of ancient India in order to set environmental catastrophe in right order through available apparatus within its reach.

So far as "governmentality" of nation state is concerned, the judiciary may set the things in order only when it is approached through litigation, but the real emancipation lies elsewhere. Without participation of the civic society and universal awareness of the importance of preservation of the environment and ecology nothing worthwhile and sustainable can be achieved.

Each citizen of the country must be under obligation to protect the environment not only for his own good but for the larger good of the Nation. The fundamental constitutional duties have laid that it should be duty of each citizen of India to "protect and improve the environment including forests, lakes, rivers and wildlife and have compassion for living creatures."

The National Human Rights Commission has taken several initiatives for the preservation and improvement of natural environment and in this regard is deeply concerned about the environmental issues specially those that impinge on the rights of the citizens. It also receives several complaints relating to environmental issues affecting human rights of the citizens namely safety of mine workers, problems of fluorosis caused by drinking water, displacement of persons by development projects and other such issues. The efforts made by the Commission in getting some industries affecting the residents moved to other places have yielded both short term and long term results. The Commission is maintaining a watchful eye on disease resulting from polluted drinking water. The Commission is also alive to the problems of rehabilitation of people displaced by mega projects like construction of dams on their lands acquired for that purpose.

The Commission has also urged the Government that a National policy be adopted in this respect based on principles that are just and fair and transparent and conform to the Constitution and Treaty obligation of this country. The core group on health constituted by Commission is looking into the matters of water related problems caused by environmental pollution.

All that has been narrated above has created a scene of environmental pandemonium that the human race finds itself in. The global warming, the depleted of O-Zone, vast depletion of natural resources like forest are threatening human existence on the globe. The international conventions and treaties have high lighted the issue and put the problem into sharp focus. The existence of human race will be seriously threatened if these issues are not addressed in the light of international conventions and judgments delivered by our Hon'ble Supreme Court. I will conclude by quoting from the Stockholm declaration (1992).

"To defend and improve the human environment for present and future generations has become an imperative goal for mankind, a goal to be pursued together with, and in harmony with, the established and fundamental goals of peace and of world-wide economic and social development."

*Human Rights and Rule of Law**

'Be you ever so high, the law is above you' epitomises the significance of the rule of law in governance. This principle follows from the guarantee of equality before the law given in article 14 of our constitution which implies equal application of laws to every one, irrespective of status in life. 'The Rule of Law' is seen as a "principal institutional morality".

The Universal Declaration of Human Rights, underlines in its Preamble that, "Whereas it is essential if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by rule of law".

Before proceeding further it is important to understand the definition of human rights. Section 2 (1) (d) of The Protection of Human Rights Act, 1993 defines "human rights" as the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants. It is thus clear that, human rights are broadly speaking, about the worth and dignity of human beings. These are fundamental and inalienable rights of any individual living in a lawful society. In any society where there is no respect for law, human rights would be the first casualty.

The concept of the Rule of Law is quite wide. The International Commission of Jurists declared in 1959 that the rule of law was not merely to safeguard and advance the civil and political rights of an individual in a free society, but also to establish social, economic, educational and cultural conditions under which legitimate aspirations and human dignity are realized. In other words, an effective rule of law structure is a *sine qua non* for upholding the human rights of the masses. Even in emergent situations like terrorism, extremism, insurgency, etc. it is the rule of law which ensures protection of the human rights of the affected population.

The core values of our constitutional philosophy indicated in the Preamble to the Constitution of India are 'dignity of the individual', and 'unity and integrity of the nation'. The two, obviously, co-exist, and are not incompatible. The message is clear. Every attempt must be made to strike a balance between the two in all state actions including legislation, its interpretation and implementation. This is the demand of the rule of law in a republican democracy.

**on 7th September, 2009 at SVP National Police, Academy, Hyderabad*

Under the 'Rule of Law' the government is accountable to the people and cannot function arbitrarily. It imposes a limitation on its discretionary powers and thus acquires supremacy of law as opposed to the supremacy of the government or any political party. It is clearly associated with the concept of the modern state which creates stable, favorable general condition to allow the development of all people living between its boundaries.

Effective democratic system allows for the peaceful articulation of demands and resolution of competing claims, thereby promoting a sense of justice and social unity. In a truly democratic society, where the rule of law prevails, there are lesser and lesser choices of violation of human rights. In a society where the 'Rule of Law' is respected the human rights are guaranteed and promoted.

The weaker sections of the society suffer the most from violations which are at the root of serious social and economic problems faced by our society. The most effective way, in my view, to solve such problems is to guarantee human rights of the weaker sections of the society in full measure.

It is well-known that the Constitution has provided three most effects organs to the State for running affairs of the governance. These institutions are, the legislature , the judiciary and the executive. They play a pivotal role in preserving the integrity of the country and dignity of persons.

The legislature, having law making as one of its primary functions is one of the main institutions for protection of human rights. It has to keep itself apace with developments relating to human rights so as to meet the challenge of framing laws on complex and novel subjects. An effective legislature is indispensable for the protection of human rights.

Next in line is the institution of judiciary which provides remedies for their violations of rights. Independence of judiciary is the strength of democracy and assurance to the citizens for equitable justice. A striking example of an independent judiciary is the US supreme court decision striking down the military tribunals set up to try the detainees being held in Guantanamo Bay. It is a victory for rule of law. Similarly, the position taken by National Human Rights Commission of India in Gujarat riots matters, on acquittal of all the accused of Best Bakery case, was a step taken to prevent miscarriage of justice and erosion of the credibility of criminal justice delivery system.

The third instrument in the armoury of the state is the executive. It is the most potent instrument for ensuring rule of law and safeguarding human rights. It falls on the executive to ensure conditions conducive to enhancing the credibility of governance. Executive enjoys enormous authority and,

obviously, has huge responsibility in applying the national laws in the spirit in which they have been enacted for it has been seen that it is in the implementation of laws that violations of human rights are committed by the members of the executive themselves. It goes without saying that modern executive is vested with so much of power that the power management has become a huge responsibility.

Our talk about human rights and the rule of law will not be complete without mention of the role of police in this field. Conceived as a wing of governance to prevent and detect crime, it has acquired the image of a repressive force and is often accused of violation of human rights. Charges of deviation from the original conception are laid against it pointing to its failure to investigate crime, arrest in false charges, illegal detention, torture and maltreatment and above all extra judicial killing also known as fake encounters. Treatment meted out to the vulnerable and marginalised groups, corruption, nexus with political masters, unflattering record of crime detection and, let me put it bluntly, failure of the senior officers to provide leadership and exercise supervision constitute a frontal attack on the credibility of the functioning of the police.

The scheme of governance accords a pivotal position to the police in the executive functions of the state, in the criminal justice system and in maintaining rule of law. This status and the legal authority conferred by various laws and statutes should put them in the vanguard of fight against violations of human rights and ensuring good governance.

I am, therefore, ladies and gentlemen, not a pessimist. Having been a member of the force for long years and watching them perform in most difficult fields and trying circumstances and knowing well the record of their achievements especially in upholding the integrity of the nation, makes you legitimately hold your head high. Let that be our motivating force.

The National Human Rights Commission, on daily basis, looks into the various cases of violation of human rights which it receives from all corners of our country, recommends action against public servants found responsible for violations of human rights of the petitioners. This serves the purpose of reminding the public servants and the members of the executive whose primary task is to maintain the rule of law that they are also accountable to the rule of law.

We live in a world where human rights violations are wide-spread. The Rule of Law is, therefore, seen as the only bull-wark against these violations. For any society to be governed by rule of law requires that it recognizes the supremacy of law which holds all individuals equal before it. Not only

does this mean that the law itself must conform to the highest principles of human rights but also that state agencies and officials themselves, must be held accountable to this law.

Rule of Law does not depend merely upon the courts and law enforcement agencies, though they play a vital role in protecting human rights. It needs a general climate of order and discipline, in particular, an attitude of mind according to which the bulk of population is inclined to uphold the law and act in accordance with it irrespective of the fact whether the law enforcement agencies are on the watch or not. In other words, the rule of law causes corresponding duty to the citizens. A state or a nation where its people are conscious only of their rights and not of their duties would soon find itself in an adversarial position to its own human rights. Recognizing the supreme importance of fundamental duties along with Fundamental Rights and the Directive Principles, the Constitution of India, following an amendment, lays down that it shall be the duty of every citizen of India to abide by fundamental duties as laid down in article 51 (A).

The traditional institutions- the parliament, the judiciary and the executive- provide the very foundation of protection. The specific institutions now developing in various countries, such as human rights commissions, are bound to play a decisive part in inaugurating new approaches and methods which correspond to the specific nature of human rights and the need to ensure both their promotion and their protection. These institutions, which are not designed to replace traditional institutions but merely to supplement them, deserve special encouragement, combined with care to guarantee their independence strictly at all levels in order to ensure the credibility and efficiency of their action.

The State is chiefly responsible for the protection of human rights. However, in addition to it, other private actors in civil society also play a vital role. For example, trade unions, professional associations, political parties, media, NGOs and so on. But, of course, the effective protection for human rights in a country rests ultimately on its well - aware and informed citizens. Though much has been done, but a lot more has to be done to see through the development of human rights education for all, the gradual establishment of a culture of human rights, which is the best way of guaranteeing their observance.

*Inspirational Leadership, Power Management & Good Governance**

Ladies and Gentlemen,

It gives me immense pleasure to be with you today in this historic city of Lucknow. I am thankful to the Direct Taxes Regional Training Institute for giving me this opportunity to interact with the participants of the Integrated Management Course for the senior functionaries of the Income Tax Department such as Commissioners, Additional Commissioners and Joint Commissioners. As I understand this course has been organized to create awareness in the participants about their role as senior level managers. The topic on which I have been asked to speak today by the organizers is on "Inspirational Leadership, Power Management & Good Governance.

Leadership is indeed an important concept in all studies in organization. Generally the discussion on leadership centres on its application in management. In fact, as you all know, it has been reduced to a technique in handling corporate affairs and business management. But to, my mind, leadership concept is not merely a managerial skill; It is a much higher virtue. It is an endowment of personality and character which both uplifts and inspires. When I speak of leaders, I have in mind those who operate on a higher moral plain and wield their power and authority on such a scale that they change the course of events for their followers or for those whom they lead.

"Great leadership is a unique form of art, requiring both force and vision to an extra-ordinary degree..... leadership is more than a technique, though techniques are necessary. In a sense, management is prose, leadership is poetry. The leader necessarily deals, to a large extent, in symbols, in images, and in the sort of galvanizing idea that becomes the force of history. People are persuaded by reason, but moved by emotion; he must both persuade and move them. The manager thinks of today and tomorrow. A manager, represents a process. The leader represents a direction of history. Thus a manager with nothing to manage becomes nothing, but even out of power, a leader still commands followers..... Great leadership requires great vision, one that inspires the leader and enables him to inspire the nation."

*on 4th August 2005 at Direct Taxes Regional Training Institute (A Division of National Academy of Direct Taxes, Nagpur) Vibhuti Khand, Gomti Nagar, Lucknow-226 010

Who is a leader? The general perception that he is either a political big wig, an army commander or a powerful boss. No. In our respective avocations or field of activity we are all called upon to display leadership skills. When I refer to leaders, I include everyone; mothers, brothers, teachers, principles, students, doctors, law enforcement officers, executive managers etc. This is an acknowledgement of the fact that each one has been entrusted with a role, how he or she plays that role will all depend on his or her innate qualities.

A leader is identified by the society's mouthpiece of social conscience. He forfeits his leadership when society discovers he no longer represents its conscience.

The supreme quality of leadership is first of all unquestionable integrity. Without it no success is possible.

Along with integrity of the leader the most important traits of his personality are morality and ethical conduct. These have guided and motivated the rulers in the past, especially in ancient India, when our rulers functioned more as representative of the people than as feudal lords.

peaking of quality of good leadership the role of ethics in preventing abuse of power, in the context of current scenario cannot be over emphasized. Much power is vested in today's public servant. If it is not handled with scruples of morality and ethics, the impact of abuse of power is bound to have a crippling impact on polity and the people as, in fact, it is already having.

Moral attributes such as honesty, commitment to one's social duties and principles, responsibilities for one's words and deeds are important attributes for a leader in any walk of life. The role of moral factors, therefore, is becoming more and more crucial in leadership. It is as crucial and significant as the role of legal, political and other regulatory instruments. Public opinion, therefore, justly links the prestige of a civil servant, first of all, with decency, honesty and responsibility.

Moral attributes such as honesty, commitment to one's social duties and principles, responsibility for one's words and deed are as important attributes for a leader in any sphere of life. Administering a country of the size of India, which is full of cultural diversity, economic disparities and an iniquitous hierarchical, social structure, is both a challenge and an awesome responsibility for a leader or a civil servant, especially, in the context of changes in society, economy, life style that India is passing through. The role of moral factors, therefore, is becoming more and more crucial in leadership. It is as crucial and significant as the role of legal, political and other regulatory instruments.

It goes without saying that a leader enjoys immense power. Inspiring leadership will use power to do good to others, but power used for selfish goals would cause irreparable harm. Power always has a positive as well as a flip side. Power to do good goes with power to do harm, power to do right things can also be used to do wrong things, power to give goes with power to deny. What is expected of a civil servant in wielding power is his own "intrinsic power kit" packed with tools like intellectual and spiritual attributes, high standards of competence and a strong value system.

Unscrupulous power-management is the mother of all unholy alliances between power brokers and the public servants. It is the mother of all scams, all frauds, all organized economic crimes, all mal-administration and bad governance. It is this management of power short of any sense of moral values that has greatly harmed India's polity and economy. The Vohra Committee Report which, for the first time, talked about criminal-politician nexus, bemoans the absence of moral values. Quoting the then Director, Intelligence Bureau, it says:

"Due to the progressive decline in the values in public life in the country, warning signals of sinister linkage between the under- world, political and the bureaucracy have been evident with disturbing regularity, as exemplified by the exposure of the networks of Bombay-blast case".

Such a dangerous nexus would not have been possible if the ethical and moral values in public life and in administration had not deteriorated. Further, it is also due to our failure to preserve the legacy of idealism and moral values that guided our freedom struggle and social movements. We have seen enough of degradation, enough of scams and subversion. The revival of the moral values and ethical standards is the only remedy that can stem the rot and restore public confidence in administration. To quote a well-informed writer, "management of power in reality is not a matter of skill, or intellect but of human values - strength of character to resist pressures for doing the wrong things, courage to support the right actions, strength of will to control one's own temporal desires In the last analysis it is one's character and values that determine how power is to be used, or how power is to be controlled. Character and discipline alone can ensure management of power with goodwill towards all and malice towards none"

Next to the moral and ethical attributes of a leader comes his incorruptibility or to put it differently, his integrity. Corruption in administration, in particular, and public life in general, arises when ethics fall weak. Ethics fall weak when individual interest is put before public interest.

Corruption has been viewed as the "most dangerous functional or professional form of criminal behavior by civil servants. Dangerous

consequences of corruption in the field of governance, development and productivity, social justice, civil administration and criminal justice system are all too familiar. Its most dangerous consequence is the serious erosion of citizen's confidence in governance.

What was the Bank security scam the CBI had to investigate. What was the great Indian bank scam. And the latest: What is the scam relating to security stamps also known as Telgi Scam. First and foremost they represent abysmal fall in moral values and ethical standards apart from being serious economic and criminal offences. These scams have exposed all that ails the present day administration: personal corruption, nexus between the criminals on one side and politician and the bureaucrats on the other. Further, all these scams exposed a huge body of administrators of various hues motivated by self-interest and personal greed. Such perverse facets of character and conduct as lobbying, protectionism, contribution for political needs, use of contact with criminals were the root cause of all these frauds that constituted a serious assault on Indian economy and fiscal system.

This phenomenon of power abuse among civil servants, ignoring laws and bribe-extortion constitute a serious threat to today's governance, deserve to be stoutly resisted, and fought with conviction. Fighting corruption is not an easy task, particularly, when the stimulus of ideology, conviction and high standards of probity is absent. It is rarely that society or the individual learns from the past and from the example of others. If it were so, Jain Hawala case in recent times, Beef-tallow case and Mundhra case in the past should have served as eye-openers both to the public servant and the society and held lessons as to how to put our house in order. These should have deterred people from indulging in the scams that followed.

When I am speaking on the theme of leadership and governance, it would be most relevant and appropriate for me as a Member of the National Human Rights Commission to speak a little about our endeavour to build up a culture and ethos and values in public life with human rights and human dignity as a common denominator.

There is a correlation between the human development index and respect for human rights, and so is there an infallible correlation between the quality of governance and the promotion and protection of such rights.

In recent years, there has been growing concern in the country that the process of governance has been on occasion, corroded by the nexus between criminals, unscrupulous political elements and members of the executive lacking in integrity. That the deleterious effect on human rights results from such a nexus can be gauged by the nature of the petitions received by this Commission many of which complain of violation because the supposed protectors of rights have themselves turned predators.

Our discussion on leadership, governance will remain incomplete without highlighting the need for commitment to our Constitution. The preamble to the Constitution, Fundamental Rights, Directive Principles and Fundamental Duties embody and epitomise the essence of administrative ethics, moral values and principles of good governance.

Indian Constitution reflects the socio-economic philosophy of a true welfare state. It seeks to entrench social and economic rights of the people. It lays down that the State shall strive to promote welfare of the people by securing and protecting, as effectively as it may, a social order in which justice - social, economic and political - shall inform institutions of the national life. It shall also strive to minimize inequality in income amongst individuals and various groups of people.

Our Constitution represents the vision and experience of our great leaders- both men and women, who participated in giving it a shape. Those leaders were not ordinary men and women because they not only delivered the nation from the bondage but in doing so, they also represented a great ideal of inspiring leadership with a combination of patriotism, selfless service, sacrifice and concerns for the people. From their example we can say that role of a true leader is helping the people in realizing their hopes and aspirations and building up quality of character, ability, vision and commitment to the service of the nation and concern for the people. The leaders who can inspire are always fired by zeal to do good of the society, to cleanse it of the rot that has set in and overcome the challenges that come in the way of change in good governance.

*Human Rights Issues**

I am indeed honored to be invited to speak before this august gathering of the Members of the Amity International Centre (AIC). The efforts of Prof. B.B. Dhar, Director of the Centre to develop it on the lines of India International Centre are indeed laudable and I hope and wish that Amity International Centre will earn the reputation as is being enjoyed by other well-known institutions in India.

It is said that, "the history of human rights is the history of human struggles. The twentieth century will be remembered as a century of war and violence and struggle for human rights. Ordinary and deprived people, women and excluded groups, and other sections of society exploited for centuries have now awakened and are demanding their rights as human beings.

The Universal Declaration of Human Rights is one of the great documents of the 20th Century. In fact, it is one of the great documents of all times. It has given voice to the common aspiration of all humanity to be treated fairly and justly. It includes civil and political rights, as also economic, social and cultural rights.

But no document, including the Universal Declaration of Human Rights (UDHR), can solve the problems of humanity simply by its existence on paper. To give life to the document, each generation must work actively and diligently to uphold its principles. Thus, to bring the to life, each of us must work to uphold human rights and oppose human wrongs.

Dr. Justice A.S. Anand, Chairperson of the Commission in his lecture on "Terrorism - An Affront to Human Rights" stated that human rights are basic to civilized existence and right to life is the most basic of all rights. In democratic societies fundamental human rights and freedoms form part of the law and their protection therefore becomes the obligations of those who are entrusted to protect them. The traditional thinking has been that it is the State that violates human rights but the violation of human rights by the terrorist is a reality, which poses a serious problem."

Of the many human rights failures today, those in economic, social and cultural areas are particularly widespread across the world's nations and peoples. In fact weaker sections of society suffer the most from such failures,

** on 20th August, 2004 at Amity International, New Delhi*

which are at the root of serious social and economic problems faced by our society. The most effective way, in my view, to solve such problems, is to guarantee human rights of the weaker sections of society in full measure.

The Constitution of India is one of the most elaborate fundamental laws ever adopted. The 'founding fathers' of the Constitution of India incorporated most of the rights enumerated in the Universal Declaration of Rights. The Preamble to the Constitution pledges to secure to all the citizens of India Justice-social, economic and political, Liberty- of thought, expression, belief, faith and worship, Equality- of status and of opportunity; and Fraternity assuring the dignity of the individual and the unity and integrity of the Nation. The two parts embody most human rights. Many of the human rights and freedoms in the Universal Declaration of Human Rights 1948 and in the International Covenant on Civil and Political Rights, 1966, are guaranteed in Part III of the Indian Constitution as fundamental rights. Part III of the Constitution, is in fact known as the Magna Carta of India. The declaration of fundamental rights in the Constitution serves as reminder to the government in power that certain liberties and freedoms essential for all the people and assured to them by the fundamental laws of the land are to be respected. Justice Bhagwati once observed:

"fundamental rights represent the basic values cherished by the people of this country since the Vedic times and they are calculated to protect the dignity of the individual and create conditions in which every human being can develop his personality to the fullest extent. They weave a 'pattern of guarantees' on the basic structure of human rights".

The fundamental rights as incorporated in Part III of the Constitution can be classified as Right to equality (Articles 14-18); Right to freedoms (Articles 19-22); Right against exploitation (Articles 23-24); Right to freedom of religion (Articles 25-28); Cultural and educational rights (Articles 29-30); Right to Constitutional Remedies (Articles 32-35).

The right to equality forms the foundation of socio-economic justice. Article 14 provides:

"The State shall not deny to any person equality before the law or equal protection of the laws within the territory of India."

Equality before the law can be equated with the Dicey's concept of "Rule of Law". In fact, the quintessence of our Constitution is the "Rule of Law". The executive officers of the State cannot interfere with the human rights of individuals unless they can point to some specific law, which authorises their acts. Rule of law also imposes duty upon the State to protect the human rights of the people and take special measures to prevent and punish brutality

by police methodology. Article 15 of the constitution specifically prohibits discrimination on groups of religion, race, caste, sex or place of birth. Article 17 of the Constitution abolishes untouchability and forbids its practice in any form. Personal liberty is guaranteed under Right to freedom. Articles 19 to 22 deal with different aspects of this basic right. Article 20 provides certain safeguards to person accused of crimes. It provides protection in respect of conviction for offences. Right to life and personal liberty is secured to all persons under Article 21. It provides:

"No person shall be deprived of his life or personal liberty except according to procedure established by law."

Article 23 prohibits the traffic in human beings and beggar and other forms of forced labour. Article 24 prohibits the employment of children in factories.

Articles 25 to 28 of the Indian Constitution specially provide Right to freedom of religion. Articles 29 and 30 deal with cultural and education rights protecting interests of minorities and right of minorities to establish and administer educational institutions respectively.

Justice P.N. Bhagwati, former Chief Justice of India, had said:

"The judiciary is not on an uncharted sea in the exercise of judicial interpretational lawmaking. The constitutional values and the international human rights instruments serve as a beacon light, a lodestar to guide and provide direction to the judge, and he must follow the dictates contained in these documents, since these documents represent the will of the people and the aspirations of the world community"

The Supreme Court of India had in its numerous judgements used international human rights instruments emphasizing their importance. Many of the rights that exist in India today are principally on account of their interpretation by the Supreme Court, influenced by international instruments. These are right to privacy, right to freedom from torture, or cruel, inhuman, or degrading treatment or punishment, right to a speedy trial, the right to free legal services, freedom from imprisonment for inability to fulfil contractual obligation, the right to compensation for unlawful arrest or detention, and the right to education. The Supreme Court of India has emphasized that it may consider international conventions and norms in construing domestic law when there is no inconsistency and there is a void in domestic law.

While talking about the achievements of human rights movement in India, it needs to be noted the enactment of Protection of Human Rights Act, 1993 represents a landmark. It gives substantive content to many human rights

protections contained in the Constitution of India. It is after the passage of this Act, that the National Human Rights Commission was set up with a very wide range of functions assigned to it under Section 12 of Chapter III. It is important to mention here that they represent the very essence of approach not only on the part of the Commission but also various Non-Governmental Organisations involved in this effort.

"Chapter III Section 12 - Functions of the Commission.

The Commission shall perform all or any of the following functions, namely:

- (a) inquire, suo motu or on a petition presented to it by a victim or any person on his behalf, into complaint of
 - (i) violation of human rights or abetment thereof or
 - (ii) negligence in the prevention of such violation, by a public servant;
- (b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
- (c) visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon;
- (d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;
- (e) review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
- (f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;
- (g) undertake and promote research in the field of human rights;
- (h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;
- (i) encourage the efforts of non-governmental organisations and institutions working in the field of human rights;
- (j) such other functions as it may consider necessary for the protection of human rights."

The National Human Rights Commission has oriented its policies and actions in this regard in a meaningful manner. Its demand for total abolition of scavenging, its emphasis on implementation of government programmes meant for weaker sections of society, its stress on public health care and adequate nutrition for poor people, are some examples of its efforts of look at human rights issues in a holistic manner.

Every day the Commission receives hundreds of complaints from the aggrieved countrymen for redressal of their grievances of violation of their human rights. These complaints come from each and every part of the country. From its inception in 1993 the Commission has registered more than 4 lakh cases indicating that people of India are increasingly becoming aware of their rights and they want the Commission to intervene to have their rights respected and protected.

The Commission's agony is amply reflected in its action in the matter of Gujarat riots. Its SLP in the Hon'ble Supreme Court, in the Best Bakery Case, praying the Apex Court, in exercise of its powers under Article 142 of the Constitution, to lay down guidelines and direction in relation to protection of witnesses and victims of crime in criminal trials which can be adhered to both by the prosecuting and law enforcement agencies as well as by the subordinate Judiciary, has indeed set the ball rolling in respect of matters connected with the Gujarat riots.

The range of subjects dealt with by the Commission includes protection of human rights in areas affected by terrorism and insurgency; custodial and encounter deaths, systemic reforms of the police, prisons, criminal justice system. It deals with the laws and international instruments relevant to the protection of Human Rights, the right to health, the rights of women and children, including the grave question of trafficking, the rights of vulnerable sections of society, particularly Dalits and Adivasis, the rights of those displaced by mega-projects and those exploited by child and bonded labour, the rights of the disabled and the need for a new international convention to reinforce respect for those rights, to undertake research projects and programmes, and to encourage the efforts of non-governmental organizations, the essential partners of the Commission.

A mention of the some of recent activities of the NHRC will not be out of place. As recent as in February 2004 the Commission in collaboration with PRAYAS at Mumbai conducted a 2-day workshop on Reviewing of Implementation of Laws and Policies relating to Trafficking, in order to achieve an effective rescue and post rescue strategy of the victims of trafficking. The Chairperson of the Commission, Dr. Justice A.S. Anand, stressed the need for a rehabilitation policy that not only includes repatriating

the victims to their native places or exploring income generating options for them but also one that includes their human rights as well as the right of these rescued women and girls to be a part of society, rights which are currently being denied.

In another matter, the Government of Orissa implemented scale of relief as per SC/ST Act, on the Commission's directive. It informed the Commission on 27 February 2004 that it has now implemented the scale of relief payable to the victims of atrocities belonging to SC & ST as prescribed in the schedule of JSC&ST (Prevention of Atrocities) Act, 1989 and Rules 1995.

The Commission is deeply concerned about the menace of unsafe and spurious drugs as well as unsafe medical devices, and it has set up an Expert Group to go into this issue. Addressing the Expert Group the Chairperson of the Commission Dr. Anand said that since Right to Life and Health is a matter of concern for the Commission, the problem of unsafe drugs and medical devices needed to be addressed. The Expert Committee is expected to submit its interim report within three months. The Commission in a recent meeting with the Chief of Army Staff drew his attention to the allegation of human rights violations by the security forces. The Chief of the Army Staff sent a detailed report on the action taken by the Army in cases of violation of human rights by the Army.

In a recent communication to the Commission, the Ministry of Home Affairs stated that the Commission could recommend payment of interim compensation for violation of human rights even in cases where violations have occurred at the hands of armed forces.

Recent reports in the media of farmers committing suicides in Kerala and Andhra Pradesh has prompted the Commission to take suo-motu cognizance and issue notices to the concerned State Governments. The Commission has been seriously concerned by the continuing reports on suicides by the debt ridden and distressed farmers.

It would thus be evident that the Commission has been making efforts in different spheres of activities for protection of rights of the most vulnerable sections of the society. The Protection of Human Rights Act, 1993, under which the National Human Rights Commission functions, is premised on the mutual efforts that are to be made by the Commission and by both the Governments at the Centre and in the States as well as its innumerable foot soldiers in Non-Governmental Organisations, human rights activists. It is indeed a joint effort at all levels to ensure the better protection of human rights in the country.

The human rights movement is a movement not only against the excesses committed by the privileged and the powerful against the less privileged and less empowered sections of the society. The modern liberalism has

extended the idea to include the human rights against those in power as well. It is no wonder, therefore, that human rights groups are often pitted against the Government policies and decisions - whether they pertain to economic, environmental and social issues - and prevent violations of human rights.

The concept of human rights is now a new gospel and has almost become a global creed. It is one of the driving forces amongst nations to forge solidarity and uphold the principles enshrined in the Universal Declaration of Human Rights. So much so, the human rights record of a state has become the legitimate concern of the international community. The human rights movement is growing in its range and sweep and with the passage of time it is encompassing issues which are essential to promote not only human dignity but also to ensure meaningful existence on this planet.

Having said all this, ladies and gentlemen, let me also add that we have no right to human rights without admitting that as free citizens we have certain obligations too. While claiming human rights we often refrain from talking about our responsibilities. Nani Palkiwala has very aptly commented upon this tendency:

"Liberty has hypnotizing sound; while unfortunately, responsibility has no sex appeal"

We cannot enjoy liberty, we cannot preserve human rights and we cannot protect human dignity without undergoing the rigours of discharging certain duties and responsibilities. The quest for human rights has to be pursued with full awareness of human duties. In this regard, I wish to conclude by quoting what Mahatma Gandhi said in a letter to Julian Huxley. He said:

"I learned from my illiterate but wise mother that all duties to be deserved and preserved come from duty well done. Thus, the very right to live accrues to us when we perform duty of citizenship of the world from this one fundamental statement, perhaps it is easy enough to define the duties of man and woman and co-relate every right to some corresponding duty to be first performed. Every other right can be shown to be a usurpation hardly worth fighting for."

*Media Initiatives in Combating Human Trafficking**

Human trafficking is one of the worst forms of violation of human rights - a form of modern day slavery where the victim is subjected to violence, violation of personal integrity and total humiliation, without any hope of succour. The victim of such devastating violence may also end up with life threatening HIV/AIDS or a life of trauma and personality disintegration. Human trafficking is thus a violation of several fundamental rights which are human rights too, - viz., the very right to life, the right to liberty and security of person, the right to freedom from torture or cruelty, inhuman or degrading treatment, the right to a home and family, the right to education and proper employment, the right to healthcare - everything that makes for a life with dignity.

Trafficking in human beings, as we all know, is not new. What is new, are the appalling new dimensions it has acquired in recent decades in the context of globalization whereby it has reached epidemic proportions today. Trafficking in human beings is no more confined to commercial sexual exploitation only. It occurs for various other purposes, such as, domestic service, labour in sweatshops and small factories, begging and sale of items, marriage, adoption, trade in vital organs and public sport. No country, let me emphasize, - is immune in this regard. Treating human beings as a 'commodity' or 'chattel' is the worst form of indignity heaped at the individuals and is a dehumanizing concept.

In today's world of information technology media is one of the most potent instruments of spreading information. It has already established its reach and proved that it can sway public opinion by exposing the ills that the society is suffering from.

Most of the ills that afflict the society have thrived because of the ignorance of the people about them. Once the ignorance is dispelled, and awareness is generated people automatically can face these problems. The power of the media therefore lies in creating awareness and also informing the people about the legal remedies available. In a country like India where there is poverty, economic disparities, illiteracy and lack of opportunities, media can play a powerful role in coming to the aid of the people who are subjected to such reprehensible practices as human trafficking.

**Keynote Address on Media Initiatives in Combating Human Trafficking held on 6th November, 2004 in New Delhi*

Wherever there is illiteracy and ignorance, there is a need to give voice to the people who suffer from social evils. Such a voice can be effectively provided by the media by exposing the perpetrators of the social evils to face the consequences of legal action. In this context, therefore, media does not have only the responsibility to inform but it has a social responsibility also. I cannot think of a more powerful medium than the media both print and electronic in order to promote and protect the rights of the people. No wonder the media rightly is described as the Fourth Estate.

There are various ways for mobilizing the masses towards the issue of combating human trafficking. This could be by dissemination of concepts, education techniques to fight rural ignorance on the subject and information through entertainment. Let us not forget that a vast number of people are still today unaware of their rights as human beings let alone on the ramifications of human trafficking.

In a big country like ours, the media covers only a negligible cross section of the society and even then reports and articles have to fight for space with political, sports, and business news to be covered adequately in the media.

By way of a word of caution, I would like to say media should be careful in not sensationalizing, trivializing incidents of trafficking and should adhere to the facts. It should report in an unbiased fashion and spurn vested interests. Media, in my opinion, thus shoulders the challenging responsibility of changing the attitude of the people towards human trafficking. When I talk about media, let us not forget the influence of cinema and folk media in shaping opinions. Here educational messages can be blended with proper entertainment methods to deliver infotainment.

Our experience, at the Commission has been that the attention paid by the media to the reports of the National Human Rights Commission by way of careful, thorough, sensitive, intelligent reporting has guaranteed that the recommendations of the Commission do not lie ignored by the authorities concerned. This was seen by the tremendous public response elicited after the media covered the release of the Report on 'The Action Research on Trafficking in Women and Children in India' in August this year. Our Commission was flooded with requests for copies of the Report. Media has indeed been a key ally.

The Action Research conducted by the NHRC has shown that crimes related to trafficking are either under reported or not reported at all. This is a serious lapse on the part of the media. Unless all crimes of trafficking are covered accurately and extensively from a rights perspective as opposed to the traditional custom of a welfare perspective, - justice would be denied to the already hapless victim.

Since trafficking is an organised crime, the exploiters fall in the realm of criminals, and therefore the media glare should logically focus more on the perpetrator than on the victim. This includes traffickers, financiers, abettors, conspirators and all those who are involved by acts of omission and commission, which lead to exploitation. The group also includes the clientele who abuse and exploit women and children. Our study has reiterated the aforementioned points and has shown that a majority of them look for sex with children and, therefore, such clientele have to be dealt with stringently. The burgeoning demand for child sex, both brothel-based and non brothel-based has to be crushed ruthlessly. Since child sex amounts to rape, even if consent has somehow been obtained prior to intercourse (vide: S. 375, IPC), the clients need to be booked under substantive law (as prescribed under S. 376, IPC) too.

The role of the State thus having been dispensed with, at least for the time being, - let us now proceed to the media angle. Our study has made a specific recommendation that media has a large role to play in mobilizing public support and involvement for preventing and combating trafficking. This is because media is a powerful tool of social change given its wide outreach and its ability to mould public opinion. It is therefore important that media reporting on human trafficking, as I have already mentioned earlier, should take in to consideration the human rights approach and ensure that there is no violation of the rights of the victims and survivors. And so, there is need to develop minimum standards for the media and ensure that they are adhered to also.

The common minimum standards could be as follows:

- Media should bring the issue of human trafficking in to the realm of public knowledge. It is important that this issue is presented as a serious violation of rights and not only as an offence in itself.
- Media should, through sensitive and meaningful projection and coverage of the issue, be instrumental in creating a sense of moral indignation and outrage over incidents of human trafficking. It should also take care to ascertain the facts, context and circumstances. A report on such sensitive issues should not be filed based on superficial interviews with persons who are mere witnesses to the incident.
- Media should desist from the temptation to sensationalise or exaggerate a particular incident.
- When media reports an incident of trafficking it should also report subsequently actions taken by concerned authorities and continue to report till action is taken to punish the perpetrators.

- In no way should media glorify the incident of trafficking by giving undue prominence to the perpetrator.
- The victim should not be further victimised or made to re-live the trauma he/she has been through.
- Under no circumstances should the media disclose or reveal the identity of the victims. Masking techniques should be used wherever the victim is made to give a first person account of his/her experience. Similarly, the victim's relatives should be assured of confidentiality.
- Media also needs to enlighten the public as what can be done to prevent such incidents, and what needs and must be done if such an incident has taken place, including providing information on legal or other remedies.
- It should provide its target audience with full knowledge about the basic rights the victim is entitled to and the legal remedies available in such an unfortunate incident.
- It needs to develop a system wherein viewers/audience can comment/evaluate on the quality and the impact of the programmes being aired and telecast.
- It should also document and widely disseminate best practices on prevention, rehabilitation and repatriation of victims, action taken against the perpetrators, work of selected NGOs, etc.
- In all reporting and investigation, the media must be guarded by the principle of the best interest of the victims.
- It should be ensured that the professionals involved in this very responsible field of journalistic activism should be allowed to practice their craft only after their knowledge and technical expertise pertaining to the relevant provisions of the law have been proved beyond doubt.
- Media personnel should undergo periodic orientation/training/ refresher programmes from time to time to help them to stay in touch with this very complex but humane nature of this reality.

It is the media that makes the authorities accountable. It is media that exposes their inaction and sets human rights issues like human trafficking high on the government's agenda. As a consequence of the intense coverage of these issues, there has developed within the public not only a perceptible heightened effort but also a tangible commitment to ensuring that appropriate levels of the Government take up the Commission's recommendations effectively. Without media focus this expression of support would have taken a much longer route.

Media must, however, recognize that sporadic outburst of outrage and occasional opposition to atrocities will not suffice. Weightage to just sensational stories do not suffice. Any violation of human dignity should be a cause to be highlighted by the media. Equally important is the follow-up of such cases, to see whether the rights have finally been restored or not.

Media exposure on human trafficking will go a long way in preventing the perpetrators to desist. It will pressurize authorities to pay heed and respond with redressal even though it may be much belated. It will alert the judiciary to take suo-motu cognizance and extend protection to the victims by promptly issuing notices to the violators to the State. It will also generate Public Interest Litigations by protagonists of civil liberties and energise non-governmental organizations to offer resistance or provide relief.

Taking into account the ground reality that in a developing country like ours, where the impact of public opinion is poor and the manoeuvring by the politician-criminal-bureaucracy nexus strong, media indeed has a stake in the preservation of human rights and in particular a social responsibility in combating human trafficking.

*State Level Consultation on Patients Rights in Maharashtra**

Current century and half of the one that has gone by have ushered an era of human rights. The most fundamental of these rights is the right to life with dignity. And crucial to the enjoyment of this right is the entitlement to health care. Universal Declaration of Human Rights has affirmed it most effectively, "Everyone has the right to a standard of living adequate for the health of himself and of his family, including food, clothing, housing and medical care and necessary social services."

The key aspect of the right to health or the patient's rights are not just about access to health care and building of hospitals. It extends further. It includes a wide range of factors like freedom from non-consensual treatment, safe food, safe drinking water, adequate sanitation, health related education, non-discriminatory gender equality etc. All these key aspects are essential to a balanced development.

There can be no second opinion that preservation of human life is of paramount importance. Article 21 of the Constitution casts the obligation on the state to preserve life. A doctor at the government hospital positioned to meet the state obligation is, therefore, duty-bound to extend medical assistance for preserving life. The obligation being total, absolute and paramount, laws of procedure whether in statutes or otherwise which would interfere with the discharge of this obligation cannot be sustained and, must, therefore, give way.

[Parmanand Katara Vs. Union of India (1989) (Raghunath Misra, J.)]

The right to health is the core issue of today's deliberations. There are certain interrelated and essential elements which are fundamental to the promotion of this right. Availability of healthcare facilities, accessibility of these facilities without discrimination, acceptability of goods and services and, finally, the quality of healthcare form the core components of the healthcare regime all over the world.

The universal assent given to these key elements has fostered a culture of Patients' Rights in today's world. The conventional approach of complete surrender of the patient to the doctor's authority and uncritical acceptance of his administrations and procedures is giving way to more intimate patients-

* on 23rd February, 2010 at Press Club Hall, Mumbai

doctor relationship. The patients are entitled to know what they are being subjected to by the doctors and nurses. With growing awareness resulting from new health programmes and policies, the patient's entitlement is gradually expanding - or has already expanded - to include right to make treatment choice, right to informed consent, freedom from exploitative practices, right to privacy and confidentiality, respect and dignity, knowledge of hospital rules and regulations, free consent, right to make complaint etc. All medical practices that deny or limit equal access to healthcare for all persons, be it in respect of gender, caste have to be eschewed in favour of non-discriminatory approach.

International committees and conferences including Alma Ata Conference have put the people at the centre of healthcare giving strength and momentum to right to medical care. It is time we respect the new culture, it is time we imbibe its key elements and it is time we implement them.

Coming to the measures sound enough to promote patients' right, these should include legislative enactments, professional ethics and promotion of social and economic rights. Without the political will of the State, and professional reorientation of medical standards any framework to operationalise the right to health care will remain flawed and unproductive. Next, these measures cannot be enforced without setting strict norms of accountability for absence of accountability would result in arbitrary norms of functioning which could run counter to the entitlement of health care.

Being a welfare State, India has introduced free medical services for its citizens and also formulated enlightened policies and programmes, but it has not enacted any legislation on the rights of the patients. Perhaps an enactment akin to US Patients' Bill of Rights is necessary to operationalise the patient's rights. Basic features of the US legislation are information disclosure, choice of providers and plans, access to emergency services, participation in treatment decisions, respect and non-discrimination, confidentiality of health information, complaints and appeals and consumer responsibilities.

In India patients rights got a fillip after the Consumer Protection Act (CPA) was passed in 1986 and it gained strength following the Supreme Court judgment (Indian Medical Association vs. V.P. Shantha, 1995 6 SCC 651) whereby the medical profession came under the CPA. Prior to the CPA the Government of India enacted Medical Council Act in 1956. The Code of Ethics of Medical Council and the norms of Nursing Council define the duties of doctors and nurses towards patients. All these form part and parcel of the patients rights.

But these rights of the patients to attainable standards of health appear to be

seriously threatened by illegal and unethical practices in medical profession, manufacture and distribution of fake or sub-standard drugs which are adversely affecting the rural sector and the poor people as they have no knowledge of what is being administered to them. None is better qualified than medical professional to maintain a vigil over such health hazards.

Being acutely conscious of the illegal practices that have crept in to the medical profession like securing employment on the basis of fake registration certificates, sub-standard quality of treatment, rampant quackery etc. the National Human Rights Commission organized a meeting of the Health Secretaries of all States / UTs on 29th of January, 2010 to draw their attention to the shortcomings in the present health care delivery system. The motive behind this Conference was to find ways and means for cleansing the medical services of unethical practices. The NHRC has consistently taken the view that the right to a life with dignity, must result in the strengthening of measures to ensure that people, particularly those belonging to economically disadvantaged sections have access to a better and more comprehensive health facilities. With a view to widening its own understanding of the health issues the Commission constituted in March, 2000 a Core Advisory Group on Health comprising eminent professionals in the field and government representatives. This Core Group has laid significant emphasis on measures to provide quality health care and prepare guidelines for protection of patient's right to health.

Keeping in line with its broad objective to give greater meaning and substance to right to health care the Commission organized two major gatherings during the year 2000. The first was on Health and Human Rights, with special reference to maternal anemia. The second was a National Conference on Human Rights and HIV/AIDS jointly organized by the Commission with the Nations AID Central Organisation, Lawyers' Collective, UNICEF and UN'AIDS which was held in New Delhi on 24-25 November, 2000. Besides this, other vital issue affecting public health and general development of human beings like prevalence of environment pollution, inadequate mental health care, HIV/AIDs, leprosy and the latest being silicosis are receiving serious attention of the Commission.

Taking cognizance of media reports, individual complaints lodged in the Commission, the NHRC has issued a wide range of recommendations covering HIV/AIDS, access to medical services, increasing awareness about certain dreaded diseases, regulation of public health services, decentralization of authority through Panchayat Raj recommendation on nutrition etc. All this is in addition to a very large number of complaints that the Commission receives about unprofessional conduct of doctors, wrong diagnosis and wrong treatment leading to permanent or partial impairment of patients. Instances

of serious medical negligence such as declaring the unconscious and in-coma patients as dead, wrong surgical procedures and cases of outright denial and discrimination reach the Commission from all corners of the country. These complaints of serious violations of patient's rights are subjected to elaborate enquiries - even by taking help of experts and suitable financial relief is authorized. Wherever necessary, criminal prosecutions, departmental action and corrective measures are also recommended.

Being concerned about prevailing unsatisfactory emergency medical care in the country, the Commission also constituted an Expert Group headed by Dr. P.K. Dave, former Director, All India Institute of Medical Sciences in April, 2003 to study the existing system and make suggestions to achieve improvement.

The NHRC has adopted a unique practice of holding Public Hearing on Right of Health Care which was - I am glad to inform this gathering today - the outcome of the proposal from the Jan Swasthya Abhiyan. Such public hearings have already been held in five regions of the country followed by one at the National level in which Dr. Abhay Shukla was a prominent participant. These Workshops provided a forum to the patients to make grievances about the denial of health care and to assert their right to life and health. It would be in furtherance of patients' rights that Jan Swasthya Abhiyan and other organisations, similarly engaged in the task of promoting health care carry on with such practices.

While talking about the patients rights one cannot be oblivious of the fact that the current right based approach to health care has indeed, led to some conflict situations. While asserting their rights, the patients, ignore their responsibilities and tend to lay disproportionately greater stress on the obligations of the medical professionals and even go to the extent of launching legal action against them. While the patients rights to health is sacrosanct which permits no lapses, instances of misplaced assertive actions - tend to mar the concept of new and developing relationship between the patient and the doctors. It is an obligation cast on all of us gathered here today that this new concept of intimate relationship between the medical professionals and receivers of health care is not allowed to become adversarial. No right can acquire legitimacy without corresponding responsibilities.

Finally, ladies and gentlemen, the independent judiciary in India is strong enough to not only uphold the rights of the patients, but also protect the professionals in the medical field. The doctors, medical institutions and nursing homes need not be unduly worried about the performance of their functions. The law is watchdog, and not a blood hound and as long as doctors do their duty with reasonable care they will not be held liable even if the

treatment is unsuccessful. It cannot be ignored - while fostering the patient's rights culture, that the medical professionals also have their own human rights which need equal protection. Let me assure you that the NHRC together with the judiciary will always maintain vigil to protect the rights of both doctors and patients. Today, in tune with the theme of this meeting, let us pledge ourselves to promote and protect the rights of the patients.

*Police Civil Society Interface for Promotion of Human Rights**

The police and the civil society have for long - as is the case even today - lived in an adversarial relationship. The distrust of police bordering on cynicism has always characterized public perceptions. Conceived in the beginning of the colonial era, it was mainly used as a coercive arm of the colonial masters even though the much maligned Police Act of 1861 deprecates any arbitrary and tyrannical use of powers.

After independence, India became a Republic having its own Constitution considered to be one of the most enlightened documents for regulating the functions of the State. From an authoritarian State, we adopted a democratic form of government. The primary goal of governance became, securing to all citizens of the nation, justice, liberty, equality and fraternity assuring the dignity of the individual and the unity and integrity of the Nation. The Directive Principles enshrined in Part IV of our Constitution completely altered the nature of governance both in the sphere of administration as well as in the making of laws. The aims and objectives of the State, as in under the Constitution are that 'of Welfare State' and not the 'police state'.

It is in this context that the interface between the police and the civil society has to be viewed and understood. It is essential as there is no other wing of governance which touches the life of the citizens so closely as the police. Its functions which, in earlier days were primarily confined to preservation of public peace, law and order and prevention and detection of crime, are now perceived to include the protection of the democratic set up of our polity as enshrined in the Preamble to our Constitution, which among other things, includes ensuring a life of dignity to all citizens. We cannot also forget our commitment to the UN Charter of 1945 which we signed on 26th June 1945 along with other nations. We have also adopted Universal Declaration of Human Rights in 1948 and, later, two Covenants - International Covenant on Economic Social and Cultural Rights and International Covenant on Civil and Political Rights.

The result of these land-mark declarations is that the freedom and dignity of all people everywhere have become indivisible human rights. These rights have become integral to securing various imperative freedoms, including freedom from discrimination, whether by gender, race, ethnicity, national

**on 22nd March, 2006 at Tata Institute of Social Sciences, Mumbai*

origin or religion, freedom from fear of threats to personal security, from torture, arbitrary arrest and other violent acts etc.

For all these rights and freedoms to prosper, a firm interface between the guardians of law and civil society is the first and foremost need. In order to attain this interface in a democratic set up and a welfare State it is the image of arbitrariness and torture that needs to be shed and refurbished by all ranks of the police force by adopting high professional standards in solving crimes and handling criminals.

The first high point of contact and interface between police and public is the police thana. Civil society or the victims of crime come to the police station for seeking redressal for violations of their human rights and crimes against life and property. The old arbitrary approach often characterized by unprofessional, rough and tough methods still persists, by and large. In matters of registration of crime, the disinclination - if not altogether a refusal - or a selective approach to record an FIR is a universal complaint. It is not always the lack of resources or job stress that is the root cause of such behaviour. Often it is the lack of concern, competence and even character. Where human concern is understood as the core value and rule of law is the guiding force, crime registrations and fair investigations would help human rights strike roots and be unshakable against all onslaughts

Crime investigations is the foremost function of the police. Cooperation of the civil society can make this task easy. Its absence can render it intractable. Applying short-cut techniques to solving crime where scientific methods are required, losing patience and resorting to torture or violence where protracted interrogations are essential robs the police of all its credibility and renders it unworthy of the role assigned to it. Torture and strong-arm methods have never yielded the desired results. This is evident from the low or nil success rate in solving crimes with strong arm methods.

Reverting to crime investigation, I would again emphasise that there is no alternative to winning the confidence of the civil society than by carrying out scientific, speedy and unbiased investigation of crimes reported in a thana. Public watches with concern when grave crimes affecting the individual or society at large are tackled either in un-professional manner or under extraneous pressures. A crime mishandled is the surest way to miscarriage of justice. The latest and the well-known example of this is the Jussica Lal Case. As per reports appearing in the media, all those factors that we deprecate, that is, the unprofessional and biased approach to investigations, succumbing to temptations and extraneous pressures, failure to evaluate available evidence have combined to make it a case of grave miscarriage of justice. There can not be a worse illustration to shame all

those engaged in the noble task of administering criminal justice system. I must say this includes the civil society as well.

As we have all observe not too infrequently the civil society is no longer a supine and meek spectator of the assault on human dignity inflicted in the form of custodial violence. The degree of public outrage sometimes manifests itself in an uncontrollable fury leading to attacks on the very guardians of the law. This, of course, also can not be condoned as the civil society is as much expected to confirm to the rule of law as the police to enforce it.

Power to arrest and treatment meted out to persons in custody have often resulted in serious violations of the human rights. The civil society views this conduct absolutely arbitrary and highly repressive. The abuse of this power is starkly evident from the fact that not all the persons arrested are sent up to courts to face trial. The National Human Rights Commission - ever since its inception - has been receiving large number of complaints against police for making unjustified, indiscriminate arrests, including implication of innocent persons in false cases. The civil society considers it as a serious assault on human dignity and violation of human rights.

The powers vested with the police are immense. If these powers are not exercised with scruples, these can have crippling impact on the polity and the civil society, as in fact they are already spawning wide-spread pessimism and cynicism.

The immense power inherent in the role of the police can have a positive side as well. The power to do harm can be used to good. The power to do wrong things can also be used to do right things. In wielding power what is required is high standards of competence and undying faith in human dignity. Unscrupulous power management is the mother of all evil that bedevils the relationship of the police with civil society. We have to assist the society to achieve equilibrium and balance and convert ourselves into potent facilitators of equality and not disparity; for development and not stagnation; for harmony and not discord; for solace and not misery.

Much is expected from police and rightly so. But we would be unfair to this vital wing of governance if we ignore the stress and difficulties that they suffer from. Lack of resources, inadequate infrastructure, unhealthy living conditions, long working hours, unreasonably large number of cases that they are expected to investigate, operating in areas affected by militancy and insurgency, tell upon their efficiency to be effective instruments for facilitators for promoting human rights. They cannot be expected to protect rights of the citizens in an effective manner if their own rights are ignored. The civil society and the Government have to appreciate these difficulties

and take remedial measures to ameliorate their conditions. I would in fact go to the extent of saying that part of the burden lies on the civil society to integrate policing into country's planning and welfare and keep them on their side to create an environment conducive to promotion and protection of human rights.

We cannot afford to forget that period ahead will bring issues relating to the dignity and worth of human persons to the center of social, political and ethical agenda. In the 21st century the focus of human rights and human development will inevitably engage our attention. The true performance of the police, therefore, would lie in ensuring the freedom and dignity of the individual and also standing by those who are disadvantaged by circumstances of birth or for reasons of economic and social exclusion.

There is yet another very important area where the interface between the Police and the Civil Society is very significant and crucial to creating an environment for promotion and protection of human rights. It is the all too well known guarantee of equality before law enshrined in our constitution. The litany of cases registered or not registered on the basis of bias arising from cast, creed or economic status discredits not only the police but the entire machinery of governance meant to promote justice, equality and uphold human rights. Nothing out rages the civil society and alienates it more than the unjust treatment meted out to the deprived, the hapless and the unaided members of the civil society.

A word about the attitude of the Police towards women and children would not be out of place. Sociological changes, measures being taken to empower them would owe their success to a large degree to how Police handles the matters brought to their notice. Sexual abuse of women and children in custody constitutes the gravest form of violation of human rights and dignity. It has to be noted and be always at the back of our mind that women and children constitute the bulk of the civil society. Lowering their dignity when they are in custody, not responding to their calls when they are in distress or discriminated against is the surest way to undermine the interface between the Police and the Civil Society that this Seminar seeks to establish. A proactive approach by police in curbing such pernicious evils as trafficking in women and children will not only be right step towards cleansing the society of evil practices but a salutary measure towards enhancing human dignity.

Please permit me to say that a civil society which does not discharge its duties and obligations towards their fellow citizens can never be effective partners in the mission to promote and protect human rights. Realizing the importance of these obligations, our Constitution which has conferred on all

its citizens most inalienable or indivisible human rights, that is, the Fundamental Rights has also laid down in Part IV-A and Article 51 (A) that it shall be the duty of every citizen of India "to abide by the Constitution and respect its ideals. The ideals as enshrined in the preamble need no reiteration.

We cannot enjoy liberty, we cannot preserve human rights and we cannot protect human dignity without undergoing the rigors of discharging certain duties and responsibilities. The quest for human rights has to be pursued with full awareness of human duties. I wish to conclude by quoting what Mahatama Gandhi said in a letter to Julian Huxley. He said:

"I learned from illiterate but wise mother that all duties to be deserved and preserved come from duty well done. Thus, the very right to live accrues to us when we perform duty of citizenship of the world from this one fundamental statement, perhaps it is easy enough to define the duties of man and woman and co-relate every right can be shown to be a usurpation hardly worth fighting for.

A combination of the commitment of Police to rule of law and the civil society resolve to abide by and uphold the ideals set out in our Constitution would lay a firm and unshakable foundation for a interface. Which is the need of the house to promote her main rights.

*Ethical Issues in Public Administration**

Morality and ethical conduct are not present-day concepts. Indian civilization is underpinned by certain enduring values which, briefly put, are reverence and respect for values and ethics. These have guided and motivated the rulers in the past, especially in the ancient India when the king, venerated as a person of divine origin, was first and foremost a people's representative.

The concept of kingship in our ancient literature grants the king immense power and rights. At the same time it clearly defines the duties and responsibilities that were placed on him. Not surprisingly, therefore, in spite of monarchical structure of government, the king or the ruler was severely restricted by "Dharma", as stipulated by the ancient seers, who saw monarchy as a mere compilation of duties of a king towards his kingdom. This duty-orientation role of the king directed him to function only as a representative of Dharma, its protector and servant.

I would come, first of all, to the role of ethics in preventing abuse of power, in the context of current scenario. Much power is vested in today's public servant. If it is not handled with scruples of morality and ethics, the impact of abuse of power is bound to have a crippling impact on polity and the people as, in fact, it is already having, spawning wide-spread pessimism and cynicism.

Moral attributes such as honesty, commitment to one's social duties and principles, responsibility for one's words and deeds are as important attributes for today's civil servant/ruler as they were in the past. Administering a country of the size of India which is full of cultural diversity, economic disparities and an inequitous hierarchical, social structure, is both a challenge and an awesome responsibility for a civil servant, especially, in the context of changes in society, economy, life style that India is passing through. These changes are accompanied by social tension and conflict. The role of moral factors, therefore, is becoming more and more crucial in regulation of modern society. It is as crucial and significant as the role of legal, political and other regulatory instruments. Public opinion, therefore, justly links the prestige of a civil servant, first of all, with decency, honesty and responsibility.

Power always has a positive as well as flip side. Power to do good goes with

**on 1st July, 2005 at Lal Bahadur Shastri National Academy of Administration, Mussoorie*

Selected Articles and Speeches Shri P. C. Sharma

power to do harm, power to do right things can also be used to do wrong things, power to give goes with power to deny. What is expected of a civil servant in wielding power is his own "intrinsic power kit" packed with tools like intellectual and spiritual attributes, high standards of competence and a strong value system.

Power can be an instrument to protect civil liberties and freedom. It can also be wielded ruthlessly to subvert these values. It is here that ethical and moral values can help an administrator in his function of power management. If the political and administrative power structure and its management are not informed by ethical and moral values, the existing inequalities will be acutely accentuated. And the worst fall-out will be unbridled corruption.

Unscrupulous power-management is the mother of all unholy alliances between power brokers and the public servants. It is the mother of all scams, all frauds, all organized economic crimes, all mal-administration and bad governance. It is this management of power shorn of any sense of moral values that has greatly harmed India's polity and economy. The Vohra Committee Report which, for the first time, talked about criminal-politician nexus, bemoans the absence of moral values. Quoting the then Director Intelligence Bureau, it says:

"Due to the progressive decline in the values in public life in the country, warning signals of sinister linkage between the under world, political and the bureaucracy have been evident with disturbing regularity, as exemplified by the exposure of the networks of Bombay-blast case".

As a remedy, the report suggests identification of the nexus between criminals/mafias and national elements on the one hand and bureaucrats, politicians and other sensitively located individuals on the other.

Such a dangerous nexus would not have been possible if the ethical and moral values in public life and in administration had not deteriorated. Further, it is also due to our failure

to preserve the legacy of idealism and moral values that guided our freedom struggle and social movements. We have seen enough of degradation, enough of scams and subversion. The revival of the moral values and ethical standards is the only remedy that can stem the rot and restore public confidence in administration. To quote a well-informed writer, "management of power in reality is not a matter of skill, or intellect but of human values - strength of character to resist pressures for doing the wrong things, courage to support the right actions, strength of will to control one's own temporal desires In the last analysis it is one's character and values that determine how power is to be used, or how power is to be controlled. Character and

discipline alone can ensure management of power with goodwill towards all and malice towards none"

In this connection I would further like to quote what Dr. Justice A.S. Anand, Chairperson, National Human Rights Commission had said while addressing the participants at Indian Institute of Public Administration. He said, "Let us civilise and discipline public power for betterment of the society. Let us assist the society to achieve equilibrium and no imbalance. Let us provide means for equality and not disparity; for development and not stagnation; for harmony and not discord; for solace and not misery; for abundance and not poverty; for love and not hatred and when we all do so, we have hope and not despair."

Next to the abuse of power that I have been just talking about is the prevalence of corruption in administration, in particular, and public life, in general, Corruption arises when ethics fall weak. Ethics fall weak when individual interest is put before public interest.

Corruption has been viewed as the "most dangerous functional or professional form of criminal behavior by civil servants". Dangerous consequences of corruption in the field of development and productivity, social justice, civil administration and criminal justice system are all too familiar. Its most dangerous consequence is the serious erosion of citizen's confidence in governance.

What was the Bank security scam the CBI had to investigate? What was the great Indian bank scam? And the latest: What is the scam relating to security stamps also known as Telgi Scam. First and foremost they represent abysmal fall in moral values and ethical standards apart from being serious economic and criminal offences. These scams have exposed all that ails the present day administration: personal corruption, nexus between the criminals on one side and politician and the bureaucrats on the other. Further, all these scams have exposed a huge body of administrators of various hues motivated by self-interest and personal greed. Such perverse facets of character and conduct as lobbying, protectionism, contribution for political needs, use of contact with criminals were the root cause of all these frauds that constituted a serious assault on Indian economy and fiscal system.

Corruption is often described as a social phenomenon that provides scope for aggrandizement to bribable officials and other servants during the discharge of their official duties. True. But this traditional description has given way to more serious manifestations of corruption like organized crime, syndicate cartels, crime by terrorism and above all threats to personal liberty and freedom. How people have shed inhibitions, given up- pursuit of normal

and dignified ways of earning livelihood in favour of out-lawed pursuits represents moral degradation, utter disregard for civilized norms and ethical standards. This phenomenon can also be attributed to disparity between public practices and existing legal norms.

Some people argue that reason for corruption is bad legislation. This could be true to some extent. But it is moral degradation as well that is one of the prime causes of corruption among civil servants.

This phenomenon of power abuse among civil servants, ignoring laws and bribe-extortion constitute a serious threat to today's administration, deserves to be stoutly resisted, and fought with conviction. Fighting corruption is not an easy task, particularly, when the stimulus of ideology, conviction and high standards of probity is absent. It is rarely that society or the individual learns from the past and from the example of others. If it were so, Jain Hawala case in recent times, Beef-tallow case and Mundhra case in the past should have served as eye-openers both to the public servant and the society and held lessons as to how to put our house in order. These should have deterred people from indulging in the scams that followed.

The greatest hurdle coming in the way fighting corruption is the umbrella of protection that like-minded bureaucrats extend to each other. It calls for high standards of courage, conviction and probity to punish the guilty. I have seen several cases when investigations failed; trials got subverted by this protective approach.

When I am speaking on the theme of ethics in today's administration it would be most relevant and appropriate for me as a Member of the National Human Rights Commission to speak a little about our endeavour to build up a culture and ethos and values in public life with human rights and human dignity as a common denominator.

There is a correlation between the human development index and respect for human rights, and so is there an infallible correlation between the quality of governance and the promotion and protection of such rights.

The Supreme Court of the country has expressed deep and abiding concern for issues of good and ethical governance and its understanding and support to the causes of human rights. In civilizational terms this means the shedding and denouncing aberrations that, over the times, have wounded and fractured our society leaving some more equal than others in grievous violations of human rights norms and of acceptable standards of equity and justice. In political terms, we have to act with greater fidelity to the vision of the founding fathers of the republic who gave the nation a Constitution that guarantees fundamental rights to all - regardless of cast, creed, gender, place

of birth or any other such invidious distinction. In administrative ethical terms there is a need for diligence, will and stamina to reform and structure those instruments of governance that are in danger of atrophy and that daily outrage the dignity and worth of those who come in contact with them.

In economic, social and cultural terms, there is need for courage to deal with challenges of our richly pluralistic society which is at once a source of delight and uniqueness, which, if abused or manipulated, can no less be a cause of violence and despair. The period ahead would bring issues relating to the dignity and worth of human persons to the center of social, political and ethical agenda. In the 21st century the focus on human rights and human development will inevitably engage our attention. The true performance of good administrator would open the door of freedom and opportunity to those who are disadvantaged by circumstances of birth or for reasons of economic and social exclusion.

In recent years, there has been growing concern in the country that the process of governance has been on occasion, corroded by the nexus between criminals, unscrupulous political elements and members of the executive lacking in integrity. That the deleterious effect on human rights results from such a nexus can be gauzed by the nature of the petitions received by this Commission many of which complain of violation because the supposed protectors of rights have themselves turned predators.

Finally, we have to realize that unless human rights are made focal point in good governance in the backdrop of ethical values in administration progress is neither possible nor sustainable as no amount of economic development can be sustained without baseline of respect of human rights. We have a great and noble task to perform and make our contribution to efforts of the society to usher in just and growing human rights regime.

Our discussion on moral values and ethics in administration will remain incomplete without highlighting the need for commitment to our Constitution. The preamble to the Constitution, Fundamental Rights, Directive Principles and Fundamental Duties embody and epitomise the essence of administrative ethics, moral values and principles of good governance.

Indian Constitution reflects the socio-economic philosophy of a true welfare state. It seeks to entrench social and economic rights of the people. It lays down that the State shall strive to promote welfare of the people by securing and protecting, as effectively as it may, a social order in which justice - social, economic and political - shall inform institutions of the national life. It shall also strive to minimize inequality in income amongst individuals and various groups of people.

Behind the making of the Constitution are the "great vision and real experience of great men and women of this country with patriotism, selfless service, sacrifice and concern for the people". The great vision enshrined in the Constitution can be realized only if our administrators imbued with these very qualities in full measure make it their goal. Further, as Justice Shivraj Patil, Member of the National Human Rights Commission has put it, "realizing hopes and aspirations of the people truly and effectively depends on the character, the ability, the vision, the commitment and the concern and the people who occupy various positions in governance of the country including the constitutional functionaries".

While concluding I would like to stress that saying all that has been said does not mean a fall into pessimism or cynicism. Personally I believe there is a body of public servants, political leaders - men and women, - in public life who are fired by the zeal to do good to the society, cleanse it of the rot that has set in. We have to increase their tribe by harking back to the administrative, professional ethics and moral values that we have talked about and also through self-criticism and self-correction.

*National Conference on Disability**

This morning, ladies and gentlemen, while watching the documentary prepared by Major, Ahluwalia, I heard a very apt description of the disabled and that is, that the disabled are differently abled. It is this new phrase that should make us look differently at the disabled and impell us to create environment for them to make full use of their potential and abilities. Such an environment is possible and can be erected through systemic changes through legislation through education and through understanding and participation by the society. The traditional approach towards disability built on charity and philonthropy will have to be abandoned in favour of one of our ensuring equal and effective enjoyment of all human rights with dignity and without discrimination.

The commitment of the State towards persons suffering from disablement is enshrined in our constitution. Article 41 states the State shall, within the limits of its economic capacity and development make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement. Article 46 mandates the state to promote, educational and economic interest of the weaker sections which includes persons with physical disabilities.

This commitment of the state has further been translated into a more positive and enlightened approach towards disability in the year 1995 when the government passed the legislation namely : the persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act. To my mind, among the various objects and reasons stated in the introduction to the Act the following two are the most important.

- (V) To lay down a strategy for comprehensive development of programmes and services and equalization of opportunities for persons with disabilities.
- (VI) To make special provisions of the integration of persons with disabilities with the social mainstream. Having thus defined our goal, it is the duty of both the state and the society to work towards achieving it. The National Human Rights Commission has acknowledged this need and its responsibility towards generating awareness in respect of this new dimension in the human right regime. The launch of a project in

**on 23rd June, 2005 at FICCI Auditorium, New Delhi*

partnership with the Canadian Human Rights Commission and the Indira Gandhi National Open University is- as the Chairperson, NHRC described it this morning- the first organized initiative for building a cadre of disability sensitive generation. How to think of more such initiative and put up systems in place which promote this culture.

I firmly believe that the systemic changes can be brought about if our existing institutions----educational, social, legal and administrative----Vow to include in their curriculum subjects relating to the rights of the disabled. This can perhaps be preceded by formulation of a sound and practical national policy for restoring the rights and dignity of the disabled. The thrust of this national policy ought to urge and exhort all systems, all institutions to, first of all, implement all pieces of legislation that have been enacted to promote and safeguard the rights of the disabled. The exclusive legislations in this respect are:-

1. The Mental Health Act, 1987
2. The Rehabilitation Council of Indian Act 1992
3. Persons with Disability Act 1995
4. National Trust of Welfare of Persons with Autism, Cerebral Palsy, Mental retardation and multiple disability Act 1999. While objectives of all these legislations are noble and laudable it has been the experience of NHRC, their implementation has been woefully disappointing.

Only yesterday the NHRC had an occasion to discuss with some representatives of the Govt. as to the level of success achieved in the implementation of these laws and we learnt with consternation that not only the central government but the States as well are lagging far behind. Today a conference of the Center and State representatives is going on New Delhi to deliberate on this subject and it is our fervent hope that more a protective, more result oriented programme of action will emerge from its deliberations.

Ladies and gentlemen, the systemic improvements are important in promoting human rights of the disabled. But more significant are improvements in mind-sets, changes in the die-hard, age-old attitudes. First and foremost is the promotion of the belief that the disabled are as important, as integral part not only of the human society but of human civilization. While creating an environment that provides full scope for exploiting the full potential of these "differently abled" people we have only to keep in mind that we are enjoying the fruits of the contributions made by a host of them in the field of science, literature environment etc. in the past as well as in the present. To name a few Stephen Hawkins in the field of science, Beethoven in the field of music, Surdas and Milton in literature, Baba Amte

in environment and to cite the most recent example is the institute of spinal injuries set up by Major, Ahluwalia, in Delhi which is considered to be one of the best in the world.

I conclude by saying that let us all join in this efforts of bringing about system improvements in promoting human rights of the disabled. In doing so we shall do well if we remember the words of Dostoevsky narrated this running by VC of Law University, Hyderabad. All are responsible to everyone for everything.

*Effects of Corruption on Good Governance and Human Rights**

Good morning ladies and gentlemen, Hon'ble Chairperson, hon'ble members of the NHRC, distinguished panelists and our distinguished participants.

We are back to the discourse on corruption-its impact on Governance and human rights.

Today's topic for discussion is the Role of Civil Society, Field Functionaries and Media in Combating Corruption. Please permit to say a few words by way of introducing the subject. It is acknowledged that the menace of corruption can not be fought alone by invoking laws that are in place nor can it be eradicated by enacting more pieces of legislation. We already have a formidable armory of laws. To cite a few, Delhi Police Establishment Act was enacted in 1946. Prevention of Corruption Act first enacted in 1947, and later enacted in 1988, Bakshi Tek Chand Committee report of 1949, Administrative Vigilance Division set up in 1955, Vivian Bose Committee report of 1956, and the latest Santhananan Committee report of 1964 and the very latest the CVC Act. These are some of the bold and landmark steps taken to ensure probity in public life. Yet these are factors which have operated and, in fact, are still operating to nullify the anti corruption drive.

Time has come when in addition to the administrative and legal machinery, other forces like the civil society and media should step in. Similarly, there is a crying need to have a committed force of enforcement field functionaries.

The civil society, especially the young generation has already proved that they can make a difference. They can fight for a cause and succeed as well. The Jan Morcha of students in Gujarat led to the fall of a government in 1974 on the issue of corruption. International level, we can cite the example of students again for toppling the government of a charismatic leader in Indonesia on the issue of corruption.

Media in India has also proved its might in combating corruption. Vaneet Narain case is a celebrated example in recent history. We have seen the impact of sting operations with 11 members of Parliament losing their membership.

**National Conference on Effects of Corruption on Good Governance and Human Rights held on 9th - 10th May, 2006 at Vigyan Bhavan, New Delhi*

But woefully, where we have failed is at the implementation level. A welfare state depends on its field functionaries to achieve its goal of protecting human rights through successful implementation of its programmes and policies. Nothing illustrates the dismal performance of field officers better than the famous statement of Late Rajiv Gandhi, who said that only 15 paise out of every rupee reach the beneficiary in anti poverty programmes. This underscores the importance of having a honest and strong machinery of field functionaries.

Today we have in our midst two outstanding personalities. One representing the bureaucracy which is engaged in the task of formulating policies and their implementation. The other representing the media which is maintaining a watchful eye on corruption wherever it exists.

*Prevention of Torture in India**

History of torture is as old as history of all great civilizations, races, empires, some of the great religions and colonial regimes. The Pyramids, true marvel of the great Egyptian civilization, are, no doubt, wonders of the world, but they are also lasting monuments to the torture inflicted by the Pharaohs on the slaves to extract their labour. Moses, perhaps is the first known figure in the mankind's history who felt their pain and delivered them from their bondage and captivity.

Greek civilization - universally acknowledged as the mother of Western civilization - owes much of its grandeur to the blood and sweat of the slaves. Enormous wealth and leisure that the Greek men enjoyed is what they totally denied to the slaves who were at the bottom of the hierarchy with free men at its top. And the extent of torture meted out to them can be imagined from the number of slaves that lived in Athens around 430 B.C. It is estimated that the population of the slaves was nearly half of the total population of the Greeks.

This arbitrary use of power was first halted in England with Magna Carta, claimed to be the single greatest step taken towards democracy. But what really advanced the cause of equality, self-determination and human rights was the League of Nations formed after the First World War. This quest for equality and freedom from torture and discrimination finally culminated in the Universal Declaration of Human Rights adopted after the Second World War in 1948 when the States decided to adopt "common standard of achievement for all peoples and all nations".

The prohibition of torture and slavery became the core principle of international human rights law, which transcended all national instruments and became part of customary international law.

The launch of civil movements in the 20th century against suppression of the weak, discrimination based on caste, creed and culture - all being the root causes of torture - and a number of codified laws became the starting point for a new era in human relations. And a society based on equality, freedom and respect for the individual human being emerged, supported by a number of national and international laws, institutions and civil societies.

**National Conference on Prevention of Torture in India held on 25th June, 2007 in New Delhi*

In our own times Mahatma Gandhi, who felt most deeply the torture and pain of the down trodden and the socially discriminated said poignantly: "It has always been a mystery to me how men can feel themselves honoured by the humiliation of their fellow beings". What he said and did to relieve the poor and the backward from the age-old yolk of misery and coercion and to lift them to a life of dignity found its mention in the very Preamble of the Constitution of India which assures its citizens a life of dignity and equality. In fact, it has its echo throughout our Constitution.

It is in this background and in this context that the National Human Rights Commission of India was born following the enactment of the Protection of Human Rights Act with its avowed aim for "preventing violation of human rights" and reviewing the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights", among other things.

Though no definition of torture has been provided in the Protection of Human Rights Act, custodial violence, as one of the extreme forms of torture, has been the major priority of the NHRC ever since its inception.

It has issued guidelines in December, 1993 itself enjoining upon all States to report all cases of custodial deaths or rape within 24 hours of their occurrence.

The complaints received in the NHRC mostly relate to indiscriminate arrest, torture inflicted on arrested persons while they are in lock up or on remand, false implication in cases, fake encounters etc. In this regard enquiries conducted by the NHRC, public litigations filed in courts, magisterial enquiries conducted in the State jurisdictions and reports received from NGOs have received serious and urgent attention of the Commission which has never failed to address the question. "If people are not safe in police or judicial custody, where can they be safe?"

Addressing this serious issue, the Commission has urged Government of India to be partners in the global fight against torture by ratifying UN Convention against Torture which it signed in 1997. It is now learnt that the Ministry of External Affairs has initiated action in the matter and has emphasized upon the authorities concerned the need for affecting changes in the domestic legislation in order to bring these provisions in conformity with the UN Convention against Torture. This is a significant step towards outlawing torture and its elimination, if not wholly but significantly.

In the codified criminal laws of India there are a number of provisions to curb the incidents of custodial torture. Sections 220, 330, 331, 376(2) and 376(b) of Indian Penal Code and Sections 25 and 26 of Indian Evidence Act and Section 49 of the Code of Criminal Procedure 1973 contain penal

provisions against torture and provide legal safeguards.

Indian Penal Code:

- Section 220 - Indian Penal Code punishes a persons, who having authority commits for trial or confines any persons knowing that in doing so, he is acting contrary to the law.
- Section 330 - Indian Penal Code punishes voluntary causing hurt for extorting confession of any information, which may lead to be detection of an offence.
- Section 331 - punishes voluntary causing grievous hurt to extort or compel restoration of property.
- Section 376(2)-punishes rape committed in police custody.
- Section 376(B) - punishes for sexual intercourse by public servant with woman in his custody.

The Indian Evidence Act, 1872

- Section 25 - of the Indian Evidence Act states that no confession made to a police officer shall be proved as against a person accused of any offence.
- Section 26 - of the Act state that no confession made by any person whilst he is in custody of police officer unless it is made in the immediate presence of a Magistrate shall be proved as against such a person.

Code of Criminal Procedure 1973

- Section 41-44 enumerates the circumstances under which, police officer shall be proved as against a person accused of any offence.
- Section 49 - provides that the person arrested shall not be subjected to more restrain than is necessary to prevent his escape.

The Code also provides certain rights to the arrested persons, which act as legal safeguards. The detainee has the right to be taken before a Magistrate without delay under Section 56 and 76. He has the right not to be detained for more than 24 hours without judicial scrutiny (Section 57 and 76). He also has the right to be examined by a medical practitioner at the request of the arrested person (Section 54).

NHRC, while disposing of complaints alleging torture scrupulously adheres to these provisions not only while recommending penal action but also while awarding monetary compensation or interim relief to the victims of torture or human rights violations.

In India compensation in case of torture including mental torture is an enforceable right.. The Supreme Court of India in a number of its decisions started a new era of compensatory jurisprudence in Indian legal history. The newly forged weapon to help victims of torture has been sharpened in many of its decisions like *Rudal Shah vs State of Bihar* (AIR 1983 SC 1086); *Bhim Singh vs State of J&K* (1984 SCC Supp. 504); *Saheli vs. Commissioner of Police* (1990 1 SCC 422); to name a few. In the case of *Nilabati Behera vs State* (AIR 1993 SC 1960), the Court crystallized the judicial right to compensation, which was further reiterated in *D.K. Basu* case. NHRC is always guided by these landmark judicial verdicts while dealing with complaints of human rights violations, in general, and torture, in particular.

The plight of prisoners inside jails has also been a matter of critical concern to the NHRC. In fact, Section 12 of the NHRC Act mandates the Commission to visit jails or any institution where prisoners are detained or lodged, to study the living conditions of inmates and make recommendations thereon. The Commission undertakes this task from time to time and has been making recommendations with regard to decongesting jails, improving sanitary conditions and creating better medical facilities.

In order to streamline the existing procedure relating to scrutiny of incidents of custodial violence, the Commission has created a separate cell within its Investigation Division. This cell is entrusted with the task of obtaining the relevant documents from the concerned authorities and then critically analyzing the material with a view to assisting the Commission in deciding what action is required to be taken in respect of each incident of reported death in custody and torture.

The Commission has also made certain recommendations to the Government for amending some of the legislations on the issue of custodial violence. These are:

- Early action needs to be taken on the suggestion of the Indian Law Commission to the effect that Section 114(B) be inserted in the Indian Evidence Act 21872 to introduce a rebuttable presumption that injuries sustained by a person in police custody may be presumed to have been caused by a police officer.
- Section 197 of the Code of Criminal Procedure need to be amended, in tune with the Indian Law Commission's recommendations, to obviate the necessity for governmental sanction for the prosecution of a police officer, where a *prima facie* case has been established, in an inquiry conducted by a Sessions Judge of the commission of a custodial offence.
- As suggested by the National Law Commission, there should be a mandatory inquiry by a Sessions Judge in each case of custodial death, rape or grievous hurt.

The Statute of the National Human Rights Commission mandates it to undertake and promote research in the field of human rights (Section 12(g)).

Many research studies undertaken by the Commission, inter alia, have covered the issue of torture, especially torture against the marginalized, the poor people in custody and the rights of women prisoners in jails.

The most visible wings of the State are the police, para-military forces, armed forces and the public servants. Often, they are also the ones accused of inflicting violence and torture on those in custody or detention. It has been the Commission's endeavour to sensitize them and make them realize that protection of human rights is their prime task in the field of governance. In all training programmes and sensitization workshops, besides the functionaries mentioned just above, judicial officers and prison officials are also included.

Very significantly, therefore, the Commission has also collaborated with the civil society and the Government on the issue of torture. A national conference on custodial violence was organized in New Delhi which was inaugurated by the Union Home Minister. It had participants including senior government functionaries from the Centre and the States, police heads of States, para military forces and judiciary. All its deliberations were focused on ensuring the rule of law and were directed against torture or the arbitrary use of authority by those engaged in the task of governance. Specific recommendations were also made to protect the marginalized people against atrocities committed by the State, the influential and the privileged sections of society. The impunity enjoyed by police and others in the establishment also formed the core of discussion on custodial violence in particular, and torture in general.

Similarly, a National Conference of the NGOs in Support of NHRC Programmes was organized on 28th and 29th of April, 2007 in Bangalore where vital issues relating to protection of human rights including prevention of torture and custodial violence were discussed at length. The Commission also undertook a joint project with the British Council on "Human Rights Investigation and Interviewing Skills" and "Strengthening Role of Human Rights Cells in State Police Headquarters to improve Custody Management".

In a landmark departure from its routine proceedings, the Commission decided to visit the State capitals to sensitize the State Governments and its functionaries about protection of human rights. In this exercise, pending cases of violation of human rights were taken up and final recommendations were made on the spot. The cases taken up by the Commission not only included custodial violence but also cases relating to violation of human rights of the poor and downtrodden sections of the society. So far the Commission has visited two State capitals i.e. Lucknow and Patna. At Patna,

the Commission also had a regional meeting with the Chief Secretaries and DGPs of the States of Jharkhand, West Bengal and Orissa. This exercise is scheduled to be carried forward by visiting other States from where cases of violation of human rights have been reported in large numbers.

It is our fervent hope that this new practice will not only sensitize the States about the need of protecting human rights of all sections of the society but also generate awareness in the civil society about their rights and empower them to assert themselves.

The Commission is not unmindful of the evils in the criminal justice system. As early as 14th December, 1993 i.e. just after its inception, the Commission wrote to all Chief Secretaries of the States on reporting of custodial deaths/rapes within 24 hours. Thereafter, it took up the issue of post-mortem examinations in cases of deaths in custody with the Chief Ministers of States in 1995. Similarly, matters relating to encounter deaths, visits to police lock-ups, guidelines on arrests and polygraph tests, measures to improve police-public relationships, constitution of district complaints authority, mentally ill persons in prisons, medical examination of prisoners, premature release of prisoners, other instructions/guidelines pertaining to human rights in prisons etc. had been taken up with the Chief Justices of all High Courts, Chief Ministers, Chief Secretaries Home Secretaries, DGPs of the States from time to time.

The incidents of torture affect the credibility of the rule of law. The community rightly feels perturbed. Society's cry for justice becomes louder. Any form of torture or cruel, inhuman and degrading treatment, whether it occurs during investigation, or routine running of administration has received severest condemnation from the Commission. It is the fervent hope of the National Human Rights Commission that with the steps enumerated above, the quality of administration will improve restoring the confidence of the people in the rule of law.

I would like to conclude by sharing the vision of Nelson Mandela expressed in his speech on receiving the Nobel Peace Prize, in 1993. I quote:

".....These great masses will have turned their backs on the grave insult to human dignity which described some as masters and others as servants, and transformed each into a predator whose survival depended on the destruction of the other. Thus shall we live, because we will have created a society which recognizes that all people are born equal, with each entitled in equal measure to life, liberty, prosperity, human rights and good governance. Such a society should never allow again that there should be prisoners of conscience nor that any person's human rights should be violated."

NHRC's National Launching Function for Spreading Human Rights Awareness among Rural Youth*

Hon'ble Chairperson, NHRC, Ladies and Gentlemen

I am extremely happy to be present at this occasion where NHRC is launching an important initiative for spreading human rights awareness among the rural youth by a collaborative effort with the Nehru Yuva Kendra Sangathan. We are aware that the Nehru Yuva Kendra Sangathan is implementing the programme of National Integration Camps across the country and through which we can enhance our reach to rural youth located even in the remote corners of the country. In 2010-11, it is proposed that 495 districts of the country will send a total of 1824 teams to these camps. Each of these teams will comprise of 150 rural youth. Hence a total of 34,200 rural youth will be participating in this programme. We look forward to continue this effort in coming years with renewed vigor.

I have always enjoyed the opportunity to share a few moments with young people on occasions such as this one. Being with the younger generation means participation in the future. The present, no doubt is more tangible-more real-but it is the future that beckons us. Hope and anticipation are the most edifying emotions. Therefore, being with you this morning is being with aspirations, with plans for dream realization and towards a brave new world of tomorrow full of energy and enthusiasm.

India has the largest population of youth comprising of 34 % of the total population. This gives us an idea of the vast human resource that the youth represent in our country sometimes referred to as the demographic dividend. The Youth in India have always been in the forefront. Be it our struggle for freedom or our quest for development, youth have played a vital role. It is, therefore, a time for nursing extraordinary expectations and enjoying uncommon opportunities. But it also places on you exceptional responsibilities.

The youth can shoulder these responsibilities and contribute to India's success and progress only if they are equipped with skills and knowledge. In order to harness the potential of the youth, Government has been taking initiatives for equipping the youth of the country with necessary skills. However, much more needs to be done. The youth are also expected to grow mentally to be

**organized by National Human Rights Commission and Nehru Yuva Kendra Sangathan at Visakhapatnam on 3rd December, 2010*

competent enough to play an important role in the nation building. Their dedication and hard work as well as quest for acquiring knowledge and new skills will help in making India a superpower as dreamed by one of the role model of the Indian youth, former President, Dr A P J Abdul Kalam.

Human Rights, which every human being enjoys by virtue of his birth as a member of the human family are an important requisite for our dignity as human beings. No compromise with these entitlements is permissible in any civilized society. These rights are non-negotiable, non-alienable and recognize an essential worth of a human being. All human beings, irrespective of their religion, race and sex are entitled to enjoy these rights in equal measure. They are the ethical norms for the treatment of individuals. Human Rights are, thus, rights which have come to be recognized as basic conditions for full development and civilized living of a human being. In democratic societies, fundamental human rights and freedoms are put under the guarantee of law and therefore, their protection becomes an obligation of those who are entrusted with the task of governance.

Safeguard of human rights have been given lot of importance at International level. Besides the Universal Declaration on Human Rights which was made in 1948, there are two different important International Covenants covering two sets of Human Rights. One relates to civil and political rights like life and liberty and the other relates to economic, social and cultural rights such as food, education and health.

The object of both sets of rights is, to make an individual an effective participant in the affairs of the society. Unless both sets of rights are available, neither full development of the human personality can be achieved nor can the society be truly democratic in nature. Unfortunately, Protection of social, economic and cultural rights compared to protection of civil and political rights, are sometimes less emphasized upon than is necessary. Therefore, there is a need to create awareness among the society in general and youth in particular with equal emphasis on both aspects.

I would like to share that the National Human Rights Commission of India was set up in 1993 under the Protection of Human Rights Act, 1993 to ensure protection of human rights across the country. It is thus a statutory and autonomous body, which works independently. There are also 18 State Human Rights Commissions in the country including one in Andhra Pradesh.

The motto of the National Human Rights Commission is "Sarve Bhavantu Sukhinah". It signifies happiness and health for all is sought to be achieved through a rights-based regime where respect for human beings and their dignity is cardinal. The Constitution of India provides the basic framework for this rights based regime. The constitutional framework is complemented by several legislations and institutional mechanisms that serve to respect, protect and promote human rights.

Over the last 17 years, the Commission has endeavoured to give a positive meaning and content to the objectives set out in the Protection of Human Rights Act, 1993. The Commission has worked vigorously and effectively to create awareness and to sensitize public authorities for promoting and protecting human rights in the country. The National Human Rights Commission apart from working for the eradication of bonded labour and child labour and the rights of the children, women and other weaker or marginalized sections of the society, has also undertaken work in other fields, such as, right to health, food and education and right of displaced persons due to natural and manmade calamities etc.

A number of human rights violations in our country are at a societal level, which had been going on for centuries. For instance, the position and status of woman in the Indian society today is partly on account of the patriarchal society and partly on account of entrenched attitudes regarding the role of woman. The consequent discrimination of the girl child in education, health care and nutrition is widely documented, as are gender based human rights violations like domestic violence, dowry harassment, rape, female infanticide, foeticide etc.

The youth could play the most important role in the protection and promotion of human rights at the grass root level, especially the rural youth, as we know that India lives in villages. Needless to say that this generation of youth is more aware of their rights and corresponding duties. You also have a duty to ensure that the rights of the most vulnerable in the society are not violated. If such a violation takes place, then you have a duty to ensure that the institutional framework working at the grass root level including the Panchayati Raj Institutions works to eliminate these aberrations in the society.

Millions of people in this country live in a state of abject poverty, without food, shelter, employment, health care and education. Various reports have indicated that large sections of the population in our country do not have access to basic amenities like food and clean drinking water. I am positive that this young generation of India will strive towards eliminating these societal violations by changing the mindset.

Let us rise to the occasion and work for the betterment of the society. While seeking our rights, let us not over-look our duties and obligations as citizens. Let us assist the society to achieve equilibrium and not imbalance. Let us provide means for equality and not disparity; for development and not stagnation; for harmony and not discord; for solace and not misery; for abundance and not poverty; for love and not hatred and when we do so, we have hope and not despair.

North Eastern Regional Public Hearing on Health*

"Serve Bhavanti Sukhina..."

Serve Santu Niramaya

Serve Bhadrani Paschentu

Maa Kashchit Dakh Bhagam Bhaveth"

This shloka taken from the Vedas adopted by the National Human Rights Commission in its logo, has been the motivating force behind the actions of the Commission. When we translate this shloka from Sanskrit it means "All should be happy, all should be healthy, remain free from diseases and enjoy good health.

WHO in its Constitution declares that 'enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being. It also says that 'health is a state of complete physical, mental and social well being and not merely the absence of disease or infirmity. The right to health of the highest attainable standards, is a basic human right recognized universally and therefore, must be treated as State responsibility.

In a healthy body lies a healthy mind. A country's progress is directly proportional to the health of its citizens. More healthy the people a country has, more economically well being it is. A health society acts as a reservoir of national energy increasing per capita income of itself as also of its country.

The health of a nation is difficult to define in terms of a single set of measures. At best, we can assess the health of the population by taking into account indicators like infant mortality and maternal mortality rates, life expectancy and nutrition, along with the incidence of communicable and non-communicable diseases.

According to these measures, the health of the Indian population has improved dramatically over the past fifty years. Life expectancy has risen from 33 years to 64 years. The infant mortality rate (IMR) has fallen from 148 to 71 per 1000. The crude death rate (CDR) has fallen from 25 to under 9. The couple protection rate (CPR) and total fertility rate (TFR) have also improved substantially.

**on 28th November 2004 at Guwahati*

Like population growth and economic growth, the health of a nation is a product of many factors and forces that combine and interact with each other. Economic growth, per capita income, employment, levels of literacy and education - especially among females - age of marriage, birth rates, availability of information regarding health care and nutrition, access to safe drinking water, public and private health care infrastructure, access to preventive health care and medical care, health insurance, public hygiene, road safety, and environmental pollution are among the factors that contribute directly to the health of the nation.

Communicable diseases such as malaria, Kalaazar, tuberculosis and HIV infection remain the major causes of illness in India. During the next five to ten years, existing programmes are likely to eliminate polio and leprosy and substantially reduce the prevalence of kalaazar and filariasis. However, TB, malaria and AIDS will continue to remain major public health problems. India has about 1.5 million identified cases of TB that are responsible for more than 3,00,000 deaths annually. Improved diagnostic services and treatment can reduce the prevalence and incidence of TB by 2020. About 2 million cases of malaria are reported in India each year. Restructuring the "malaria workforce" and strengthening health infrastructure can reduce the incidence of this disease by up to 50 per cent within a decade. Assessing the impact of HIV epidemic is more difficult; according to an estimate, there are about 4 million persons infected with HIV. The National Health Policy aims at achieving a plateau in the prevalence of HIV infection by 2007.

Childhood diarrhoea, another major cause of illness, is largely preventable through simple community action and public education, and deaths due diarrhoea can be eliminated by 2010. Childhood under-nutrition, the other major area of concern, can be addressed by targeting children of low birth weights and employing low-cost screening procedures to detect under-nutrition at an early age. Given the projected improvement in living standards, food security, educational levels and access to health care among all levels of the general population, substantial progress can be made in reducing the prevalence of severe under-nutrition in children by 2020. China's remarkable success in combating disease over the past two decades is proof that a determined commitment to improving public health can dramatically reduce the incidence of infectious diseases within one or two decades.

With the demographic and epidemiological transition taking place in the coming years, non-communicable diseases are also likely to emerge as major public health problems. Modernisation of life styles will further aggravate health problems. The rapid proliferation of two and four wheel motor vehicles, increasing congestion on city roads and intercity highways have all contributed to an increasing number of deaths and serious injuries from traffic related accidents

India's significant achievements in the field of health have been made possible by the establishment of a huge rural health infrastructure. This infrastructure remains under-equipped, under-manned and under-financed to cope with the challenge of eradicating major threats to human life.

The inadequacy of the current health care system is starkly illustrated by the fact that only 35 per cent of the population have access to essential drugs, while the UMI reference level is above 82 per cent. Infant immunisation against measles and DPT for children under 12 years is only 60 per cent and 78 per cent compared to the UMI level of over 90 per cent for both diseases.

The level of public expenditure on health care needs to rise about four-fold from the current level of 0.8 per cent of GDP to reach the UMI reference level of 3.4 per cent. Rapid growth of the private health care system, requires the formulation of competence and quality standards to check and balance the increasing emphasis on health care as business.

Criteria for a More Equitable and Effective Health Care System.

- Universal access and access to an adequate level of health care without financial burden.
- Fair distribution of financial costs for access and fair distribution of burden in rational care and capacity.
- Ensuring that providers have the competence, empathy and accountability for delivering quality care and for effective use of relevant research.
- Special attention to vulnerable groups such as women, children, the disabled and the aged.

Children being the supreme assets of the country, the 'Rights' based approach will continue to play an important role in ensuring their 'survival', 'protection' and 'development', with special attention to the girl child.

The other categories of the vulnerable groups include the scheduled castes (SC), scheduled tribes (ST), other backward classes (OBC) and minorities, constituting nearly three-fourths of the country's total population. They require special attention in order to narrow down the disparities between them and the more privileged section of the population.

The responsibility of the State to provide health care increases manifold in a country like ours where most of the populace is very poor and its access to health care nutrition, sanitation, potable drinking water, healthy environment is minimal.

Under Article 47 of the Directive Principles of State Policy, the

Constitution obligates the States to raise the level of nutrition standards of its people and improving the public health among its primary duties. Article 25 of the Universal Declaration of Human Rights, 1948 declares that "everyone has the right to standard of living adequate for the health and well being of himself and his family, including food, clothing, housing and medical care and right to security in the event of sickness and disability."

Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) to which India is a party, recognizes the right of everyone to the "enjoyment of the highest attainable standards of physical and mental health.

The International Conference on Primary Health Care meeting in Alma-Ata in USSR in 1978 expressed the need for urgent action by all governments, all health and development workers, and the world community to protect and promote the health of all the people of the world. The Conference strongly affirmed that health, which a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity, is a fundamental human right and that the attainment of the highest possible level of health is a most important world-wide social goal whose realization requires the action of many other social and economic sectors in addition to the health sector. It further reiterated that the existing gross inequality in the health status of the people particularly between developed and developing countries as well as within countries is politically, socially and economically unacceptable and is, therefore, of common concern of all countries.

The ground realities, very aptly recognized by the world community at Alma-Ata Conference in 1978, have not changed much even after 26 years of the holding of the Conference. In our country especially, the majority of our countrymen continue to remain deprived of fruits of the minimum health care they are entitled to. The health indices in our country remains low compared to other developing countries even though the budget plan providing funds for health care keep on increasing every year. The health services still remains inaccessible, unaffordable, and inappropriate to the needs of the most of the vulnerable groups of our population such as women, children, tribals, dalits poor etc. Even after more than 57 years of independence, health care service are still concentrated in urban areas while rural areas lack even the basic facilities that should be available in a primary health center. Even a simple medical appliance like a machine to monitor blood sugar level to check diabetes is not available in a primary health center.

The services provided by the public and private health care providers are not only inadequate but there are also often allegations of corruption against

the medical personnel and other health workers who fail to treat the patient as a person having inherent human dignity.

Even today, despite the supply of free and subsidized medicines by the state, many are forced to purchase expensive medicines from private practitioners causing indebtedness and in some cases death due to failure in getting timely medical treatment.

Various indicators of woman mortality and morbidity highlight their poor health status and reflect their poor access to quality health service. Maternal mortality rate in India is extremely high and is unacceptable. Pre-natal and post-natal care is being denied to women in rural areas. Less than 31.8% of women get full antenatal care and less 32.3% of women in rural areas undergo safe deliveries. The prevalence of anaemia among pregnant women is a serious cause of concern.

High infant mortality rate and malnourishment of children has always been a neglected issue and there is an urgent need to remedy the situation. In India infant mortality rate is high at 72 per thousand live births and experts say that 53 per cent of children under five years remain malnourished. Child health in India is a source of serious concern. Nearly two million children between 1 and 5 years of age die due to largely preventable causes. A UNICEF report mentioned that some 40,000 children die every day from Vaccine Preventable Diseases which really is a very deplorable state of affairs. It is astonishing to note that 53 per cent of children under five remain malnourished. This despite the fact that our country has achieved remarkable increase in food production, has built up stocks of food grains for emergency situations.

Recent data on the prevalence of anaemia among women point to the shocking neglect of women's health. As per national Family Health Survey 1998-99, 52 per cent married women in age group 15-49 suffered from anaemia - 46 per cent in urban areas and 54 per cent in rural areas. Proportion varies from 23 per cent in Kerala to 86 per cent in Arunachal Pradesh. Prevalence of anaemia among children below age of three was even higher. Close to 74 per cent children below the age of three suffered from anaemia - 71 per cent in urban areas and 75 per cent in rural areas.

In India all children below the age of five suffer from malnutrition and in combination with maternal anaemia lead to their neurological impairment affecting their mental ability. Immediate remedial steps are necessary to improve the situation in respect of infant mortality, child anaemia, child malnutrition.

The tribals account for only 8 per cent of India's population whereas they

bear the burden of 60 per cent of malaria deaths. Tribals reside in particular in hilly regions and places adjacent to forests. Their inhabitations are not normally approachable and health care is neither within their reach or knowledge. They are becoming victims of epidemics apart from malnutrition. Special schemes and mobile medical units need to be implemented which are in harmony with their traditional beliefs and knowledge in order to guarantee tribals their right to health care.

To achieve this we need to have a discussion on adopt a holistic model of health care which puts the human beings in the center. What is needed is a dialogue between the modern allopathic system and the traditional system, each checking and fertilizing the insights of the other.

The increase in HIV-AIDS patients is most alarming. The unchecked transfer of AIDS infection from cities to towns and rural areas is likely to cause serious medical and social problems. Some diseases such as HIV AIDS, leprosy, T.B., mental illness carry a social stigma with them. These diseases not only destroy the health and the economic well being of the patients and their family but they are also subjected to discrimination at the very hands of those who are supposed to provide them with treatment. Thus health services that meet both the physical and emotional needs of those affected by such diseases is the need of the hour.

The fruits of rapid strides science and technology has made in the field of medical science must reach each and every corner of the country and not stay put in the big metropolitan town to benefit a minuscule population who have been able to afford the best medical care. These advances in medical science should be available to the poorest of the poor citizen as also to one living in the remotest corner of the country, who has a claim to these facilities as his right.

The majority of people are not able to enjoy the fundamental right to health. There exists a need to improve the quality of medical care and drugs and food intake in the country. In addition, issues such as providing safe drinking water and sanitation need to be addressed. There is an obligation on the State to effectively deal with health care by providing all facilities and required infrastructure. Thus 'Health For All' cannot be achieved without improvements in other sectors. For achieving this State must encourage active participation of all the players in this process as they are ultimate beneficiaries of the improved health conditions.

The National Human Rights Commission has taken a number of initiatives to ensure that the people of this country and particularly those belonging to economically and socially disadvantaged sections of society have access to

better and more comprehensive health facilities. NHRC has already held four regional public hearings on "right to health care" to understand the health needs of the people living in different parts of the country and so as to find out their grievances and difficulties being faced by them in exercising their right to Health. The commission proposes to make important systemic recommendations to improve healthcare delivery based on these hearings.

In the end it can be said that the health situation in the country warrants coordination among the agencies of the State, the NGOs, the Private Sector and the common people to make the goal of 'Health For All', a reality in India.

*Seminar on Custodial Justice**

In recent years growing number of cases of violence in custody has been a matter of great concern for the National Human Rights Commission, the Government and the civil society demanding accountability, transparency and reformation of law enforcement agencies that are entrusted with the task of maintaining standards of custodial institutions. This violence often takes place in police lock-ups and prisons screened from public gaze. But its dramatic exposures by media have often outraged the civil society. They are no longer supine and meek spectators of assaults on human dignity especially when it is inflicted by those who are meant to protect it. The degree of public outrage sometimes manifests itself in - uncontrollable fury leading to serious breaches of public order. Therefore there are demands from legal functionaries, human rights groups, non-governmental organizations, women rights activists and concerned citizens generally that the functioning and performance of those engaged in the task of administering criminal justice system or dealing with crime and punishment be scrutinized in depth and with greater concern.

The NHRC has been receiving a large number of complaints relating to human rights violations resulting from violence in lock-ups, and prisons. Enquiries conducted by NHRC, Public Interest Litigations filed in courts, magisterial enquiries conducted in the State jurisdictions and reports received from NGOs confirm widespread instances of custodial violence raising a serious questions: "If people are not safe in police or judicial custody, where can they be safe". The existing situation therefore demands an urgent review of the performance and functioning of the authorities concerned and also a serious look at existing legislation, like the Police Act and Prison Act.

Taking serious note of the growing number of complaints, the NHRC has decided to conduct this two day Seminar as an effort to sensitize senior level leadership of the police and prison administration. The main focus of this Seminar will be two institutions - the police and the prisons. The purpose will be:

- i) Set out briefly the manner in which the goals of democratic governance that guide the running of these institutions have been set out and then
- ii) Observe at length whether they are violated or observed, and to determine the reasons why these codes are not followed.

**on 30th March, 2006 at Vigyan Bhavan, New Delhi*

The custodial torture has been as its major priority for NHRC ever since it was established in 1993. It has issued guidelines in December, 1993 itself enjoining upon all States that all cases of custodial death or rape be reported within 24 hours of their occurrence. The Commission has also urged the Government of India to fulfill its promise to ratify the UN Convention Against Torture which it had signed on 14th October, 1997. It is now learnt that the Ministry of External Affairs has initiated action in the matter and has emphasized upon the authorities concerned the need for affecting changes in the domestic legislations in order to bring its provisions in conformity with the UN Convention Against Torture. This is a significant step, towards creating an environment in which life in custody whether in a police lock-up or in prison will be free from violence, both physical and mental.

The plight of prisoners inside the jails has also been a matter of critical concern of the NHRC. In fact Section 12 of the NHRC Act mandates the Commission to visit any jail or any institution where persons are detained or lodged to study the living conditions of the inmates and make recommendations thereon. The Commission undertake this task from time to time and has been suggesting measures with regard to decongesting jails, improving sanitary conditions and creating better medical facilities. During the course of the Seminar we would certainly share some of our experiences with this House in this regard.

Spreading awareness about human rights through training programmes, workshops, conferences, publications etc. is one of the primary functions of the NHRC. This two-day Seminar is one such step in that direction. It is our firm belief that among the criminal offences listed in the Indian Penal Code, custodial violence is absolutely preventable and avoidable. It is towards this goal that all our deliberations in the Seminar will be directed. I am sure, that the interest shown by the various States who are represented today by their senior police officers is an indications of their interest in this noble goal. Yours presence, Hon'ble Home Minister would lend a thrust to this drive and have the salutary impact on all those wings of governance and the civil society engaged in the task of guaranteeing custodial Justice.

*Synergizing S&T with Judicial Processes**

I am very happy to be with you all today to discuss the challenges of technology that we are facing and are likely to face in the near future in the criminal justice system. It is an opportunity to reflect on the role of science and technology as a transforming agent in the criminal justice system.

Technological revolution sweeping the world today has encompassed even the criminal justice system in its broad sweep. As we have seen in other areas of public and private domain, the work of police agencies, courts, correctional institutions, community groups and other institutions which are parts of criminal justice system have been caught up in a hurricane of technological change. This revolution in science is moving at such a pace that innovations of yesterday seem commonplace today. Security men wearing bulletproof vests is a common sight today. Night vision devices, thermal imaging devices etc. are some of scientific tools being used by the security agencies.

The need of the day today is national commitment to bring law enforcement and criminal justice into the mainstream of the technological revolution. The important technologies which can profoundly affect the practice of criminal justice agencies such as electronic monitoring of criminals, telemedicine, computerized crime maps, drug testing, DNA, concealed weapons detection, information technology are to mention a few.

Technology is a way to perform our tasks better. It should be seen as a way of bringing science to bear on the problems of crime and justice. In this sense, knowledge - kind of rigorous, scientific knowledge and good research can produce - is our most powerful technology. And, I hope, our ability to produce that knowledge about crime and justice is also advancing rapidly and we need to ask the question - how do we invest in it, how do we use it, how do we harness it to maximum utility for the good of society.

Another powerful new technology is DNA. DNA allows us to match a biological sample of an individual at a mathematical level that approaches absolute certainty. DNA test are now frequently used and DNA evidence is admissible in almost all jurisdictions around the world. Let us imagine a world in which DNA is used as frequently as fingerprints are used now.

**Seminar on Synergizing S&T with Judicial Processes held on 19th Novemebr, 2004*

Another technological breakthrough is Concealed Weapons Detection Technology. I hope that with this technology in use our police officers, court security officers and other enforcement officers will be able to ascertain whether an individual is carrying a firearm. It will obviate the need to infringe the privacy of a person and safeguard against unreasonable searches.

The information technology revolution provides a police officer, with a click of a mouse, access to the crime history of particular location, background for a particular suspect using fingerprints, probation officers can track the movement of probationers using electronic monitoring devices, victims of domestic violence or stalking can be alerted when monitored. Investigators can quickly scan hundreds of databases to learn about the most intimate details of people under investigation.

Technology is a double edged weapon. As high technology increasingly penetrates our daily lives with incredible speed, leaving us awestruck by the sheer magnitude of the conveniences it has brought us, we are faced with grim revelations that it can be used with equal ease and same impact by unscrupulous elements of the society with disastrous consequences for the civilized world. High tech crime is basically a technology aggravated version of common crime that operates instantaneously, remotely and without limitations imposed by sovereignty and geography. Use of hi-tech obviously has not remained limited to committing of economic crimes alone. Electronic sabotage, espionage, terrorism, assassinations and smuggling. Technology has now added a sinister dimension to the commission of such crimes in terms of ease and magnitude and also opened up possibilities of entirely new types and classes of crime.

Today, technology based crimes cover diverse activities ranging from hacking confidential systems, planting viruses, child pornography, cellular cloning, source code theft, internet gambling, identity theft to counterfeiting. Trade in fake goods, is no longer limited to perfumes, cosmetics and garments, but covers such diverse fields as pharmaceuticals and computer software, video piracy. Besides economic losses, these crimes also pose a threat to the health and security of ordinary citizens.

It is estimated that one billion people, or 15 per cent of the world's population will be on the net by the year 2005 and 6 billion internet enabled devices will exist in the world by the year 2009. In India alone, internet users have been estimated to be growing at 100 per cent in the last few years. While just few years back, a few thousand people were believed to be capable of launching cyber attacks, analysts estimate the number of active cyber hackers to grow to 25 million worldwide by the end of the year 2004. Use of cellular phones has increased exponentially in our country. In the coming days we might

have cases in our courts dealing with concern that cellular phones may cause brain tumors.

High technology crimes need to be encountered - they need to be brought within the ambit of the legal systems in place, so that criminals are not emboldened by the knowledge of legal loopholes in the country.

Few countries in the world today have the financial and technical means to effectively deal with financial and high tech crimes. It is in the interest of the countries having means to transfer technology and expertise to the countries which either do not have or cannot afford to possess the same. All countries should ensure that consistent with their legal systems, high technology crimes are treated and dealt with as serious crimes by all part of the criminal justice system.

Synergizing science and technology with the judicial process is call of the day. Many countries in the world, especially the developed world, have been very much alive to this issue. Organizing of this Seminar itself shows that, we too, are very much concerned about this important aspect which is going to affect the lives of the people of our country in the coming days with the rapid of advance of technology touching every sphere of the life of common man. Open communication and closer cooperation between different branches of criminal justice system and science and technology is essential if judiciary is to discharge its responsibilities effectively. In the case of science and technology issues in the courts, such cooperative efforts must also reach out to members of the science and technology community.

These new capabilities pose new challenges to the criminal justice system. Such as how to balance privacy concerns with the need to conduct criminal investigations. We should ask how information technology can support the problem solving efforts of community policing? How can information technology help move decision making in criminal justice so that the employees, including police officers, judges and service providers make better decisions and exercise more discretion. I hope by creating a partnership between police departments, judiciary and the Department of Science and Technology can bring new science to support reforms in our approach to our criminal justice system.

A major problem faced by the judiciary today is mounting load of pending cases in the courts all over the country. Millions of cases are pending in the courts involving a huge mass of litigant public seeking justice for redressal of their grievances. By use of modern technology such as video conferencing to examine witnesses whether in India or abroad can reduced the time and energy spent in this regard. Moreover, evidence that is produced in the

court of law can be relied only if it is evidence coming from an expert. Science and technology has made it possible today to have the opinion of an scientific expert whether it is in the sphere of physical evidence like blood patterns, seminal stains, gunshot residues, hair and fibres or understanding human mind with the help of lie detectors etc. Recording of evidence is still being done manually. If evidence could be recorded through some specialized gadgets, work of the courts can become much easier and time saving. Crimes like cyber crime and bank technical frauds have been increasing by the day and only with the help of technology and science we can make courts appreciate the finer points and help solving these crimes.

Our country's faith in science and its commitment to judicial resolution of disputes ensure that the judiciary will continue to be called upon to decide question on the frontiers of science, these questions will arise in cases that raise profound social, economic and public policy concerns. The time has come to give the judiciary the support it needs from our scientific community to perform this difficult task.

It is high time that science and technology expertise in the country is utilized in judicial management of science and technology issues, preparation of science and technology manual for our judges, develop science and technology components for judicial education programmes, standards for admissibility of S&T expert testimony, integrated approach to scientific evidence that acknowledges and respects both the special expertise of science and the judge's responsibility to declare law.

In the recent times environmental issues have put new pressure on our legal system. This pressure is intense because of the large number of people that are involved and profound social, economic and public policy concerns that these legal claims raise. Our scientific community will need to be called upon to design educational programmes to produce materials for judicial education on complex science and technological issues to which a judge can turn when required. The ease with which judges can gain access to educational materials is as important as the quality of the these materials.

The Information Technology Act enacted by the Government of India recognizes the impact that information technology systems will have on society and governance. Systems like banking, manufacturing to health care, education etc. are among some of the important activities which will increasingly become dependent on technology.

At present existing legal provisions give more weightage to records and documents - especially those signed or authenticated by persons involved - as unassailable piece of evidence. Since technology has steadily eliminated need for paper based transactions, judicial process also needs to reorient itself to accepting electronic data as an admissible evidence.

New manifestations of crime especially those committed with the help of technology and science pose a challenge to the legal system today. Designed as it is to deal with traditional forms of crime like theft, murder, dacoity, forgery etc. age old - of course imaginatively drafted - under Criminal Procedure Code, the technology related offences do pose problems before the judicial process. To my mind, we will do well if we prepare a manual for judicial officers to help them with these new forms of crime.

It is my humble opinion that judiciaries should create science and technology resource center to provide judges with access to the collective experience of their colleagues in case management techniques for S&T issues and to educate judges on scientific methodology. Such resource center could act as clearinghouse for substantive scientific information compiled by the scientific community, monitor the impact of Science and Technology issues on the courts, and serve as a bridge for cooperation with the scientific community. Such resource center should provide empirical data on the impact of S&T issues in various types of case and use the results of that research to assist in long-range planning for the treatment of S&T issues in the judiciary. We live in an ever-changing world to which a dynamic judicial system must be responsive. Unless reliable data are obtained so that changes can be anticipated, monitored and evaluated, the ability of the courts to handle complex scientific and technological issues is compromised. The kinds of cases in which S&T issues occur are often those of the utmost social significance, and the decisions in them have major consequences for many people's lives.

You will all agree that we stand today at the forefront of a revolution in technology. Yet this revolution presents the same issues that other technological advances have presented in the past. We must keep our values foremost in our minds as we integrate technological advances into the day to day practice. We must see new technologies as partners in our efforts for reform, not as masters of our fate.

*Rule of Law and Human Rights **

'Be you ever so high, the law is above you' epitomises the significance of the rule of law in governance. This principle follows from the guarantee of equality before the law given in article 14 of our constitution which implies equal application of laws to every one, irrespective of status in life. 'The Rule of Law' is seen as a "principal institutional morality".

Historically speaking the Rule of Law can be traced to the ancient Greece, to the concepts of justice and fairness discussed by the great philosopher, Aristotle. Also, through Magna Carta, the king of England was forced to acknowledge that :

' No free man shall be seized or imprisoned or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we (the king) proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of land'

"Nani Palkhivala, the eminent lawyer, in his book "India's Priceless Heritage" has written about ancient Indian values and the Rule of Law. He said:

'It would be hard to improve upon the sense of values which made ancient India so great. Our old sages judged the greatness of a state not by the extent of its empire or by the size of its wealth; but by the degree of righteousness and justice which marked the public administration and the private lives of the citizens.'

The Universal Declaration of Human Rights, underlines in its Preamble that, " Whereas it is essential if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by rule of law".

Before proceeding further it is important to understand the definition of human rights. Section 2 (1) (d) of The Protection of Human Rights Act, 1993 defines "human rights" as the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants. It is thus clear that, human rights are broadly speaking, about the worth and dignity of human beings. These are

*on 4th August, 2006 at Sikkim Manipal Institute of Technology, Majitpur Campus, Sikkim

fundamental and inalienable rights of any individual living in a lawful society. In any society where there is no respect for law, human rights would be the first casualty.

The concept of the Rule of Law is quite wide. The International Commission of Jurists declared in 1959 that the rule of law was not merely to safeguard and advance the civil and political rights of an individual in a free society, but also to establish social, economic, educational and cultural conditions under which legitimate aspirations and human dignity are realized. In other words, an effective rule of law structure is a *sine qua non* for upholding the human rights of the masses. Even in emergent situations like terrorism, extremism, insurgency, etc. it is the rule of law which ensures protection of the human rights of the affected population.

The core values of our constitutional philosophy indicated in the Preamble to the Constitution of India are 'dignity of the individual', and 'unity and integrity of the nation'. The two, obviously, co-exist, and are not incompatible. The message is clear. Every attempt must be made to strike a balance between the two in all state actions including legislation, its interpretation and implementation. This is the demand of the rule of law in a republican democracy.

Since the Rule of Law occupies supreme position in the principles of governance it is the responsibility of the state to protect human rights within its jurisdiction. Under the 'Rule of Law' the government is accountable to its subjects and cannot function arbitrarily. Rule of Law imposes a limitation on the discretionary powers of the government and thus acquires supremacy of law as opposed to the supremacy of the government or any political party. It is clearly associated with the concept of the modern state which creates stable, favorable general condition to allow the development of all people living between its boundaries. The key elements of rule of law can be broadly stated as under:

1. The making of laws (or agreement) including Human Rights law and agreements, that are relevant to the social needs and aspirations of the society and that are reasonable and fair to all the sectors and the groups in the society at the national, regional and international level.
2. Reasonable degree of understanding and general commitment in the society as a whole to the principles of governance in accordance with the law and agreements at the national, regional and international level.

3. Pressure of institutions for law enforcement that have the capacity to enforce the law/agreements and that are independent and impartial at the national level and international level.
4. The pressure of critical mass of professionalism in the various organs of institution for law/agreements enforcements such as the police, the prosecution authorities, the courts including administrative tribunals and prisons (correctional services) which have the capacity to enforce the law and which are reasonable, fair and independent and impartial.
5. The existences of organized and active forms in the civil society, especially in the professions and among the academics, women, youth, workers, employees, peasants, the media etc. who are conscious and committed to the human rights, social justice and rule of law.
6. Reasonable degree of understanding and commitment in society as a whole to the need for continual reforms and improvements in the law/agreements and enforcement mechanism at the national regional and international levels.

Justice and accountability are essential for the "Rule of Law" to be upheld in democratic societies. Effective democratic system allows for the peaceful articulation of demands and resolution of competing claims, thereby promoting a sense of justice and social unity. In a truly democratic society, where the rule of law prevails, there are lesser and lesser choices of violation of human rights. In a society where the 'Rule of Law' is respected the human rights are guaranteed and promoted.

Of the many human rights violations today, those in economic, social and cultural areas are particularly widespread across the world's nations and people. In fact weaker sections of the society suffer the most from such violations which are at the root of serious social and economic problems faced by our society. The most effective way, in my view, to solve such problems is to guarantee human rights of the weaker sections of the society in full measure.

The Constitution has provided three most effects organs to the State for running affairs of the governance which include promotion and protection of fundamental rights, human rights and all other rights such as social, cultural and economic. These institutions are, as mentioned, the legislature , the judiciary and the executive. They play a pivotal role in preserving the integrity of the country and dignity of persons.

The legislature, having law making as one of its primary functions is one of the main institutions for protection of human rights. It is mandated to play a vital role for the effective implementation of the rule of law. It has to keep itself apace with developments relating to human rights so as to meet the challenge of framing laws on complex and novel subjects. An effective legislature is indispensable for the protection of human rights.

Next in line is the institution of judiciary. The mere conferring of human rights by the constitution and other laws is of no avail without a guarantee to provide remedies for their violations and this remedy is provided by the judiciary for acts violating the fundamental rights guaranteed to the citizens of state. The first and foremost is that the judiciary must be independent besides being competent. A striking example of the independence of judiciary is the US supreme court decision striking down the military tribunals set up to try the detainees being held in Guantanamo Bay. It is far more than a narrow ruling on the issue of military courts. In fact, it is a victory for rule of law. The public outcry for perceived miscarriage of justice in Jassica Lal murder case and Priyadarshni Mattoo murder case are indigenous examples of restoration of rule of law. Similarly, the National Human Rights Commission of India in, Gujarat riots matters, on acquittal of all the accused of Best Bakery case, where 14 persons were killed, took a serious view of damage caused to credibility of criminal justice delivery system and negation of human rights of victims, filed a Special Writ Petition under Article 136 of the Constitution of India in the Supreme Court seeking directions for further investigation by an independent agency and retrial of the case in a competent court located outside the State of Gujarat. Also in another matter connected with Gujarat riots, of Ms Bilkis Yakub Rasul, a victim of gang rape at Godhera, the Commission after considering her request offered financial/legal assistance to the applicant for pursuing legal remedies, it engaged an eminent advocate of the Supreme Court of India to file a case in the Supreme Court on her behalf.

The third important institution in the armoury of the state is the executive. It is the central organ for the implementation of human rights. It falls on the executive to ensure conditions and specific resources for implementing human rights. The executive has enormous responsibility in applying the national laws in the spirit in which they have been enacted for it has been seen that it is in the implementation of laws that violations of human rights are committed by the members of the executive themselves. It goes without saying that modern executive is vested with so much of power that the power management has become a huge responsibility.

The National Human Rights Commission, on daily basis, looks into the

various cases of violation of human rights which it receives from all corners of our country, recommends action against public servants found responsible for violations of human rights of the petitioners. This serves the purpose of reminding the public servants and the members of the executive whose primary task is to maintain the rule of law that they are also accountable to the rule of law.

All of you, Ladies and Gentlemen, are integral part of the executive. It has been seen in recent past that the expansion of the powers of the executive itself has resulted in a greater risk of violation of human rights. All said and done, it is the primary responsibility of the executive to ensure the observance of the rule of law and to see it is not violated. It has to be clearly understood that refusal to take lawful action in the discharge of ones duties is a violation of rule of law which ensure to result in violations of human rights.

We live in a world where human rights violations are wide-spread. The Rule of Law is, therefore, seen as the only bull-wark against these violations. For any society to be governed by rule of law requires that it recognizes the supremacy of law which holds all individuals equal before it. Not only does this mean that the law itself must conform to the highest principles of human rights but also that state agencies and officials themselves, must be held accountable to this law.

The doctrine of supremacy of law which is the essence of Rule of Law does not only include legality, but also broad notions of justice as distanced from positive legal rules. It is thus a basic and fundamental necessity for the government of a disciplined and organized community. The framers of the constitution in a shining example of their vision, and sensitivity to the issue, resolved in the Preamble to the Constitution itself, to secure to the citizens of the land, 'liberty, equality of status and dignity of the individuals'. This solemn resolve in itself reflects the respect for rule that everyone, wherever he is placed, whatever be his status or authority under the constitution is equal before the law.

Rule of Law does not depend merely upon the courts and law enforcement agencies, though they play a vital role in protecting human rights. It needs a general climate of order and discipline, in particular, an attitude of mind according to which the bulk of population is inclined to uphold the law and act in accordance with it irrespective of the fact whether the law enforcement agencies are on the watch or not. In other words, the rule of law causes corresponding duty to the citizens. A state or a nation where its people are conscious only of their rights and not of their duties would soon find itself in an adversarial position to its own human rights. Recognizing the supreme importance of fundamental duties along with Fundamental Rights and the

Directive Principles, the Constitution of India, following an amendment, lays down that it shall be the duty of every citizen of India to abide by fundamental duties as laid down in article 51 (A).

Human rights protection at the national level depends on the existence of the rule of law and a democratic system which make possible the establishment and effective functioning of the institutions examined above. While traditional institutions-parliamentary, judicial and executive-provide the very foundation of protection, the specific institutions now developing in various countries, such as human rights commissions, are bound to play a decisive part in inaugurating new approaches and methods which correspond to the specific nature of human rights and the need to ensure both their promotion and their protection. These institutions, which are not designed to replace traditional institutions but merely to supplement them, deserve special encouragement, combined with care to guarantee their independence strictly at all levels in order to ensure the credibility and efficiency of their action. The World Conference on Human Rights (1993) reaffirmed, in its Vienna Programme of Action, 'the important and constructive role' played by national institutions and encouraged their establishment and strengthening on the basis of the principles concerning their status adopted by the United Nations.

The State is chiefly responsible for the protection of human rights. However, in addition to it, other private actors in civil society also play a vital role. For example, trade unions, professional associations, political parties, media, NGOs and so on. But, of course, the effective protection for human rights in a country rests ultimately on aware and informed citizens. Though much has been done, but a lot more has to be done to see through the development of human rights education for all, the gradual establishment of a culture of human rights, which is the best way of guaranteeing their observance.

Human Trafficking

Mr. Amod Kanth, Director General of Police, Goa and Secretary, PRAYAS;
Ms. Nandita Baruah, Regional Programme Coordinator, Anti-Trafficking
Project, UNIFEM; **Prof. R.M. Varma**, Member, Governing Body, PRAYAS;
Distinguished Guests, Ladies and Gentlemen.

Human trafficking is one of the worst forms of violation of human rights - a form of modern day slavery where the victim is subjected to violence, violation of personal integrity and total humiliation, without any hope of succour. The victim of such devastating violence may also end up with life threatening HIV/AIDS or a life of trauma and personality disintegration. Human trafficking is thus a violation of several fundamental rights which are human rights too, - viz., the very right to life, the right to liberty and security of person, the right to freedom from torture or cruelty, inhuman or degrading treatment, the right to a home and family, the right to education and proper employment, the right to healthcare - everything that makes for a life with dignity.

Therefore, at the outset I congratulate the PRAYAS Institute of Juvenile Justice, who in partnership with the US Embassy, the UNIFEM and local media organisations is organising this National Workshop on Media Initiatives in Combating Human Trafficking. A National Workshop like the present one is an occasion for introspection and self-assessment. Its achievements should be utilised for not only realizing the goal of objective and investigative reporting on human trafficking but also one that is both preventive as well as corrective, simultaneously, - such that the wider community is made aware of the existing menace and can thereby adopt a participatory stance in curbing the same. The law enforcement machinery and other allied arms of the State would automatically be subsumed within the ambit of wider community. This Workshop, I am sure, will provide all of you with that much-needed opportunity of a healthy discussion thus enabling one to pinpoint the principles, which media coverage of human trafficking should be based upon.

Trafficking in human beings, as we all know, is not new. What is new, are the appalling new dimensions it has acquired in recent decades in the context of globalization whereby it has reached epidemic proportions today. Trafficking in human beings is no more confined to commercial sexual exploitation only. It occurs for various other purposes, such as, domestic

service, labour in sweatshops and small factories, begging and sale of items, marriage, adoption, trade in vital organs and public sport. No country, let me emphasize, - is immune in this regard. Treating human beings as a 'commodity' or 'chattel' is the worst form of indignity heaped at the individuals and is a dehumanizing concept.

And, as in most other social scourges, - who is the worst affected? None other than the women and children. This very fact has been amply substantiated by a recent Action Research conducted on Trafficking in Women and Children in India, by the Commission in collaboration with the UNIFEM and the Institute of Social Sciences. In the prevailing patriarchal scenario that we are accustomed to, - the woman and the child have been traditionally marginalized, be it at the domestic front or otherwise.

I need not mince any words to say that it is the complex interacting socio-economic-political structures, processes and relationships, underscored by class and gender that lay the ground for trafficking. And obviously, there are two sides to it - the supply and the demand.

This is precisely where the State steps in with a very significant responsibility. Under the explicit provisions enshrined in Art.23 of the Constitution of India, - trafficking is categorically prohibited to the extent that any contravention to this statutory provision is punishable under the law of the land.

In accordance with the Constitution, the Government of India has enacted the Suppression of Immoral Traffic in Women and Girls Act, 1956, which criminalizes trafficking which, however, was amended in 1986 and renamed as the Immoral Trafficking (Prevention) Act (ITPA).

The ITPA introduced several initiatives including setting up of Protective Homes to provide protection and services to victims and education and vocational training to at - risk groups. The Act also provides for the appointment of Special Police Officers assisted by women police to investigate trafficking offences, and for the setting up of Special Courts.

The Action Research conducted by the NHRC has shown that crimes related to trafficking are either under reported or not reported at all. This is a serious lapse on the part of the media. Unless all crimes of trafficking are covered accurately and extensively from a rights perspective as opposed to the traditional custom of a welfare perspective, - justice would be denied to the already hapless victim.

Since trafficking is an organised crime, the exploiters fall in the realm of criminals, and therefore the media glare should logically focus more on the perpetrator than on the victim. This includes traffickers, financiers, abettors,

conspirators and all those who are involved by acts of omission and commission, which lead to exploitation. The group also includes the clientele who abuse and exploit women and children. Our study has reiterated the aforementioned points and has shown that a majority of them look for sex with children and, therefore, such clientele have to be dealt with stringently. The burgeoning demand for child sex, both brothel-based and non brothel-based has to be crushed ruthlessly. Since child sex amounts to rape, even if consent has somehow been obtained prior to intercourse (vide: S. 375, IPC), the clients need to be booked under substantive law (as prescribed under S. 376, IPC) too.

The role of the State thus having been dispensed with, at least for the time being, - let us now proceed to the media angle. Our study has made a specific recommendation that media has a large role to play in mobilizing public support and involvement for preventing and combating trafficking. This is because media is a powerful tool of social change given its wide outreach and its ability to mould public opinion. It is therefore important that media reporting on human trafficking, as I have already mentioned earlier, should take in to consideration the rights approach and ensure that there is no violation of the rights of the victims and survivors. And so, there is need to develop minimum standards for the media and ensure that they are adhered to also.

The common minimum standards could be as follows:

- Media should bring the issue of human trafficking in to the realm of public knowledge. It is important that this issue is presented as a serious violation of rights and not only as an offence in itself.
- Media should, through sensitive and meaningful projection and coverage of the issue, be instrumental in creating a sense of moral indignation and outrage over incidents of human trafficking. It should also take care to ascertain the facts, context and circumstances. A report on such sensitive issues should not be filed based on superficial interviews with persons who are mere witnesses to the incident.
- Media should desist from the temptation to sensationalise or exaggerate a particular incident.
- When media reports an incident of trafficking it should also report subsequently actions taken by concerned authorities and continue to report till action is taken to punish the perpetrators.
- In no way should media glorify the incident of trafficking by giving undue prominence to the perpetrator.

- The victim should not be further victimised or made to re-live the trauma he/she has been through.
- Under no circumstances should the media disclose or reveal the identity of the victims. Masking techniques should be used wherever the victim is made to give a first person account of his/her experience. Similarly, the victim's relatives should be assured of confidentiality.
- Media also needs to enlighten the public as what can be done to prevent such incidents, and what needs and must be done if such an incident has taken place, including providing information on legal or other remedies.
- It should provide its target audience with full knowledge about the basic rights the victim is entitled to and the legal remedies available in such an unfortunate incident.
- It needs to develop a system wherein viewers/audience can comment/evaluate on the quality and the impact of the programmes being aired and telecast.
- It should also document and widely disseminate best practices on prevention, rehabilitation and repatriation of victims, action taken against the perpetrators, work of selected NGOs, etc.
- In all reporting and investigation, the media must be guarded by the principle of the best interest of the victims.
- It should be ensured that the professionals involved in this very responsible field of journalistic activism should be allowed to practice their craft only after their knowledge and technical expertise pertaining to the relevant provisions of the law have been proved beyond doubt.
- Media personnel should undergo periodic orientation/training/ refresher programmes from time to time to help them to stay in touch with this very complex but humane nature of this reality.

*Seminar on Human Rights Awareness**

We are living in an age of Human Rights. The twentieth century will be remembered as a century of struggles for human rights. Ordinary and deprived people, women and the excluded groups and other sections of society exploited for centuries have now awakened and are demanding their rights as human beings. The first clarion call was given by the Universal Declaration of Human Rights in 1948. The declaration has given voice to the common aspirations of all humanity to be treated fairly and justly. The Paris Principles - adopted on 20th December, 1993 by the United Nations General Assembly - gave a concrete shape to the aspirations of mankind and urged the member States to set up Human Rights Institutions.

The National Human Rights Commission was set up in 1993 in compliance with the Paris Principles.

Setting up of the Assam State Human Rights Commission by Assam Government is both a proof and demonstration of the peoples faith in the regime of Human Rights. It responds to a deeply felt need of the people to have an institution which is mandated to protect human rights and prevent their violations in a region which has remained disturbed for more than decade.

Hon'ble Justice S.N. Phukan, an eminent judge hailing from Assam who retired from the Supreme Court has rendered a pioneering service to the Commission by giving it a shape and a fillip to its functions.

I was fortunate to serve this State for a number of years. I have myself seen some of the conflict situations emerging and taking shape. There was no human rights commission then in Assam. It was my lot to deal with some of them and contribute my mite to their conflict resolution. In that context I feel privileged to be present on this occasion today.

Assam is a microcosm of India in terms of linguistic, cultural, ethnic and religious variety of its people. Its geographical picturesqueness brightens the mosaic and accords it the position of a distinct society of India. But unfortunately the variegated colours in this mosaic have been getting blurred intermittently by internecine conflicts based on social, economic, cultural, religious, tribal, racial issues and differences.

**organised by National Human Rights Commission on 28th & 29th November 2006 at Assam Administrative Staff College, Jowaharnagar, Khanapara, Guwahati*

The impact of militancy is evident on all aspects of lives of the people including the State machinery which is engaged in the task of governance and maintaining rule of law. Vast resources of the State which should have normally been deployed to reduce human misery and social hurt are being diverted to tackle the conflict situation that gives the impression of a guest who has " come to stay.

What then should be the top priority of a human right institution in such an unprecedented and extra ordinary situation. Obviously its mission ought to be to give voice to human suffering, to make it visible and ameliorate it. Its dominant discourse ought to be to awaken people to know their rights and enable them to assert them. Unequivocally, it should convey to the people that the Assam State Human Rights Commission embodies a mechanism both for generating awareness and redressal for the people's hurt and grievances. It should respond effectively to what Dr. Ambedkar emphasized:

"Rights are real only if they are accompanied by remedies. It is no use giving rights if the aggrieved person has no legal remedies to which he can resort when his rights are invaded".

Our ancient scriptures, the holy books of all the religions of the world, our Constitution with its emphasis on fundamental rights, social, cultural and economic rights, International Covenants and treaties have all combined to accord prominence to human dignity. Creating awareness to achieve this goal is the sacred task of all human rights institutions. It is a national task. It is a commitment towards empowering the people, and it is task of nation building. It also includes, ladies and gentlemen, urging the State to discharge its basic duty to ensure the rule of law. It is by guaranteeing rule of law that peace and security can be ensured, rights and dignity of all citizens can be guaranteed and people can be empowered to strive for realizing their full potential for development.

The Commission's awareness programme, and agenda, cannot fail to include, among other things, all wings of the State as partners in their mission. For, the Commission's success will depend on the measure of awareness by these wings display; be it the Prison Department, the health sector, the Police, para-military forces, departments of social justice and welfare, labour, environment etc. The case of Machang Lalung serves a grim reminder of the apathy that can destroy the dignity and even threaten the very survival of a human being if the State wings do not discharge their basic duties. Lalung, an undertrial prisoner, had been languishing in the mental hospital in Tezpur for 54 years, the judiciary under whose custody he was, appeared to have forgotten him. He could be released from his life long incarceration only as a result of the intervention made by the National Human Rights Commission.

No one owns up the responsibility! I heard some disturbing tales of neglect by the health sector when I came here last year to attend an Open Workshop on health care. Is it the failure of the system? Or, is it the collective insensitiveness that the administration is often accused of? These matters must receive the serious attention of the State. And, the State Human Rights Commission must make them visible and apply the necessary balm for it is acknowledged on all hands that human rights education and awareness can effectively contribute to both the reduction of human rights violations and the building of free, just and peaceful societies.

To my mind, a three dimensional approach can yield tangible result. This approach includes:

- a) Knowledge: provision of information about human rights and mechanism for their protection;
- b) Values, beliefs and attitudes: promotion of human rights culture through the development of values, beliefs and attitudes which uphold human rights;
- c) Action: encouragement to take prompt and firm action to defend human rights abuses.

Further, the campaign to spread human rights education and awareness must not remain confined to training institutions, workshops and seminars organized in secluded environments. It should be extended further to all wings of the criminal justice system, the civil society through NGOs and panchayats, police and para-military forces, key professionals, like teachers, media persons, medical professionals, social groups etc. The academic institutions must be urged to include chapters on human right education as distinctive features of their syllabus and academic curricula.

Reverting to the Assam State Human Rights Commission, I am confident that it can play a lead role for the entire North-East region by sharing its platform with other sister States. Problems facing this region are well known like insurgency, natural disasters, HIV / AIDs, trafficking in women and drugs, environmental degradation, labour problems, economic, cultural issues etc. The paramount need is to strengthen both the State and the civil society to have a well-defined strategy to combat these challenges and ensure a life of dignity to all its people.

The constitutional edifice of which the judiciary forms a very vital part must stand firmly as a bulwark against all assaults on justice, liberty, equality and fraternity assuring unity and integrity of the nation. In fact, the Indian judiciary has ever been in the fore-front in giving voice to the aspirations of

the people to achieve their civil and political rights, expanding the definition of Article 21 of the Constitution to include right to food and health care, interpreting the Directive Principles to include cultural, social and economic rights as human rights. The State Human Rights Commission - in fact, no human rights institution - can succeed in their mission without a vigilant and caring judiciary. The presence of His Lordship Justice Reddy in today's function gives hope and confidence to achieve this goal.

Assam has stayed in throes of a conflict situation for more than two decades. In societies where there are ethnic, religious and political tensions, where there is a history of past conflicts or rights abuses, where the institutions of civil societies designed to provide redressal are weak, corrupt or non-existent or where there is political and economic instability, are fertile grounds for outbreak of violence and abuse of human rights. It is in such arenas that the human rights institutions must step in and extend their influence and moral authority most willingly and in full measure.

Conflict resolution has been recognized as one of the principal functions of human rights institutions all over the world. In resolving conflict situations priority has to be accorded to civil and political rights. But it also has to be further extended to guaranteeing individual liberties, social, economic and cultural rights, for in the context of growing awareness of human rights, there can be no harmonious co-existence, if proper balance is not struck between civil and political rights on the one hand & social, cultural, and economic rights on the other. In his address on 5th February, 1998, at the presentation of Final Report of the Carnegie Commission on Prevention of Deadly Conflict, Kofi Annan, Secretary-General, United Nations, stated, "the prevention of conflict begins and ends with protecting the human life and promotion of human development".

One can not but observe that no human rights program will be complete and enjoy validity if it does not reach out to the impoverished masses and the dispossessed who are ignorant of their rights and thus stay incapacitated to seek any redressal of the wrongs done to them in the past and those being done even today. It is generally noticed that a large majority of the victims of human rights violations are those belonging to socially downtrodden, economically weaker sections of the society as also women and children. Whether it is illegal detention, custodial torture, false implication or inaction on part of police or prevailing corruption in Tehsils and District Courts or the problem of child labour, bonded labour, trafficking of women, child marriage or female foeticide, the sufferers are those who are weak and vulnerable. The reality is that today ordinary citizen is living in an era of instability and fear, lacking basic security for normal existence. Only a

proactive approach can give voice to their aspirations and make their suffering visible and ameliorate it. It is said that despite some astonishing human rights progress, the delivery of human rights to the masses of impoverished people happens in homeopathic measures. Therefore, ameliorating their conditions should occupy a central place in all human rights programs. Their social hurt and their deprivations should serve as a constant reminder to the commission that it is their first task to address the issues pertaining to their rights.

With the setting up of human rights institutions like the Assam State Human Rights Commission, the concept of human rights - the new gospel - would work its way through the sub-soil of human consciousness and emerge as an emancipatory force. There is gleam of hope that the issues relating to the backward and the excluded will be addressed with sensitivity, compassion and care.

*Terrorism and Human Rights**

Terrorism has spawned some of the gravest violations of human rights. But it is also true that counter-terrorism strategies employed to combat it have also sometimes resulted in insufferable violations of human rights and serious erosion of the rule of law.

It is not disputed that when the security of the nation is in danger, public peace is threatened, and human existence is in peril, the security forces --- including the police and the para-military forces --- have to combat this threat with effective counter - terrorism strategies. Their achievements in this field are laudable. But there are also instances, when, in combat situations, lives and properties of innocent citizens were either damaged or totally extinguished. Nothing that acquires the colour of State terrorism can be condoned. The Supreme Court of India has come clearly against it and has laid down.

"State terrorism is no answer to combat terrorism: State terrorism would only provide legitimacy to terrorism: that would be bad for the State, community and above all, the rule of law. The State must, therefore, ensure that the various agencies deployed by it for combating terrorism act within the bounds of law and not become law unto themselves". To put it differently, national security, undoubtedly is of paramount importance. Without protecting the safety and security of the nation, individual rights can not be protected. However, the worth of a nation is the worth of the individuals constituting it. Art. 21, which guarantees a life with dignity is sacrosanct and must inform all counter-terrorism strategies.

Having said that, it has become imperative for all wings of governance, including the police, the armed forces, paramilitary forces, the judiciary, the executive and the legislature, to have systems in place for not only issuing necessary guidelines, but also for monitoring their implementation. After independence the primary goal of governance has become securing to all citizens justice, liberty, equality and fraternity assuring the dignity of the individual and unity and integrity of the nation. The Directive Principles enshrined in Part IV of our Constitution have completely altered the nature of governance both in the sphere of administration as well as in the making of laws. The aims and objective of the state, as laid down in the Constitution

*Seminar on Terrorism and Human Rights organised by National Human Rights Commission on 22nd January, 2008 in New Delhi

were elaborated to that of a welfare state and not a 'police state'.

The Supreme Court of India has already laid down guidelines in respect of Armed Forces (Special Powers) Act, 1958. They have, in a very candid manner, firmly issued a note of caution regarding the extent of use of military power. The court struck a balance between the security needs of the country and the contemporary norms of civilized behavior. It underlines a firm resolve to equip the State with effective means to deal with disturbed areas. At the same time it cautions against unbridled authority.

The National Human Rights Commission also has continued to remind the agencies of the State that they must act in conformity with the constitution, the law of the land and the treaty obligations of the country. From time to time, the Commission has drawn the attention of the Armed Forces to the need to observe guidelines of the Supreme Court and provisions laid down in the Indian Penal Code. It has taken up the manner in which it construes the provisions of Section 19 of the Protection of Human Rights Act relating to the procedure to be followed with respect to the Armed Forces when allegations of human right violation are brought against them. Very clearly, and in a very forceful manner, it has taken the position that in case of unnatural death, caused by the use of force, or disappearance from custody, unless it can be satisfactorily shown that the custodian is not responsible for the harm done in custody, or disappearance from custody, the initial presumption of accountability of the custodian will remain unrebutted and the Commission will proceed to act accordingly.

Monitoring of human rights and generating awareness about them have to go hand-in-hand for giving human rights a true meaning. The neglect of social, cultural and economic rights that give rise to conflicts and emerging forms of terrorism will have to be addressed by all institutions of governance and the civil society. Any worthwhile strategy to resolve conflicts and terrorism will have to ensure enjoyment of the full range of economic, social and cultural rights.

The monitoring mechanism as envisioned by National Human Rights Commission has to be both external as well as internal. The external aspect of it is generally confined to National Human Rights Commission, the State Human Rights Commissions and the courts where complaints are received and disposed of after inquiry/investigations. This exercise also includes awarding interim relief/compensation to the victims of human rights violations and recommending action against their perpetrators whether from the police, paramilitary forces, armed forces or any other wing of governance.

The internal side of this monitoring is confined to setting up of human right cells in the police and all para-military forces. These human right cells or nodal points not only directly deal with complaints of human rights violations

specific to their respective formations, they also serve as links between their organizations and the Human Rights Commissions.

The case of excessive use of force especially in the disturbed sectors of J&K and North-East has always been a matter of great concern. The very first incident is that of Bejbehra in J&K, which the Commission started monitoring soon after its creation in 1993. It related to the killing of 60 persons allegedly by security forces. The incident happened on 1st November, 1993. The recommendations of the Commission made after a detailed enquiry were accepted by the Govt. which assured the NHRC that the scope for harm to civilian life and property and any kind of excess in the operations being carried out by the security forces, even in the most difficult of the situations, is effectively curbed.

The laws in India to combat terrorism and other security threats are quite extraordinary. Some of these laws predate independence and are part of the legacy with the British powers bequeathed to us. These laws may be placed into 3 general categories:-

1. Constitutional Provisions and Statutes authorizing the declaration of former States of Emergency and use of special powers during those declined periods;
2. Constitutional Provisions and Statutes authorizing preventive detention during non emergency periods;
3. Substantive criminal laws such as TADA and POTA which defines terrorism and other security related offences and establish special rules to adjudicate them during non emergency periods.

The enactment of these powerful Legislations have often led to human rights abuses because anti-terrorism laws without sufficient safeguards to constrain their misuse and without guarantee of national uniformity in their application has led to serious problems. The disparate pattern of enforcement throughout the country is the another reason that these laws have attracted, severe criticism. The human rights advocates sharply criticizes the anti-terrorism practices of the Central and State Governments in Punjab and North East throughout the late 1980s. Much of these criticism focused on the practices of the police, para military and armed forces drawing attention to the many thousands of civilian deaths and extensive evidence of extortion, torture, extra judicial killings and thousands of disappearances.

In 1999, the Law Commission of India undertook a study to determine whether new antiterrorism legislation was necessary. The Commission responded by proposing a new Prevention of Terrorism Bill based largely on

the Criminal Law Amendment Bill of 1995. Throughout 2000 and 2001, the government sought to enact a new antiterrorism law based on this proposal, explicitly invoking antiterrorism laws in the United States and United Kingdom to justify its proposal. These efforts were met with vigorous resistance not only from Indian human rights advocates, but also from the NHRC, opposition parties including even some of the ruling coalition partners. Opponents cited the abuses that occurred under TADA, fearing that the new proposal's virtually identical provisions would result in similar abuses and would be similarly ineffective in combating terrorism.

We cannot afford to forget that period ahead will bring issues relating to the dignity and worth of human persons to the center of social, political and ethical agenda. In the 21st century the focus of human rights and human development will inevitably engage our attention. The true performance of the police, therefore, would lie in ensuring the freedom and dignity of the individual and also standing by those who are disadvantaged by circumstances of birth or for reasons for economic and social exclusion.

*Role of NHRC in Protection of Civil Liberties**

After independence, India resolved to constitute a democratic republic to secure to all its citizens civil liberties and fundamental rights set out with great clarity in the preamble of the Constitution. Our Constitution begins with the famous words "we the people of India", which signifies that the people of India will be the prime concern for the State to give them justice, liberty, equality and above all, dignity.

It has been mankind's basic urge - though suppressed or kept under check by the authoritarian and dictatorial regimes - to seek liberties of thought, expression, belief, opportunity and freedom from discrimination. These urges for the first time were articulated with the force - even violence - by the French Revolution - when the famous slogan of civil liberties was raised i.e. liberty, fraternity and equality. These three words epitomise the essence of civil liberties and caused stir among the nations to think differently.

The second landmark stage came when Mahatama Gandhi started his movement to restore civil liberties of the Indians settled in South Africa. At the age of 24, when he was about to leave South Africa, he was informed that the Indians settled there had been denied the right to vote in the Assembly. That was the beginning of his famous movement of Satyagraha to get human beings - both Indians and Africans - their basic right to equality and civil liberties. What followed this decision of Mahatama Gandhi is history well known not only to Indians, but the entire world. The freedom movement that he launched was a long march to attain basic rights to life and civil liberties and also to rid the Indian nation of foreign yoke. It was his belief that human beings, no matter what is their caste, creed or religion, can not live the life of dignity if the basic liberties are denied to them. The attainment of freedom was the culmination of this struggle for freedom, fundamental rights and civil liberties and the constitution of India was its ultimate expression.

The movement for civil liberties was, later on, launched in other parts of the world as well. To name only two of them, the first is the movement launched by Martin Luther King for giving civil liberties to the Blacks in America who had been treated as unequal in society, for long denied opportunities for jobs and were discriminated against in all activities of governance. He had

**on 15th May, 2010 in New Delhi*

to pay for these values with his life when he was shot dead, but the movement continues.

Another icon of our times who led a march against suppression and slavery, is Nelson Mandela in South Africa. His struggle was not merely to free the nation of foreign rule, but to rid it of the curse of discrimination, racial as well as religious. In his struggle, he had attached greater value to human rights and civil liberties, followed by economic, social and cultural rights.

We are living in a age of human rights and civil liberties. But all these values can not be upheld or attained without generating an atmosphere for all citizens in which they feel free to pursue their true vocations, take full advantage of the opportunities available and are not discriminated against. Civil liberties are an instrument for empowerment of the people through human development. The linkage between human rights and civil liberties is recognized as they are part of a common vision and serve a common purpose, but they in turn depend on good and democratic governance.

In human rights discourse, one comes across classification of rights into civil, political, economic, social and cultural. While they no doubt help one to understand issues at hand, it is essential to recognize that no one set of rights enjoys superiority over the other. Far from being hierarchical, they are indivisible and interdependent.

The debates over the priority of one set of rights over the others was laid to rest at the world conference on human rights held in Vienna in 1993. Declaration and programme of action adopted at the end of that conference asserted that "human rights are universal, indivisible, interdependent and inter-related". This basic understanding of human rights should be the guiding factor of all efforts by the State, civil society and institutions like the National Human Rights Commission of India for making concerted efforts for their implementation.

While a number of civil rights are mentioned in the covenant on civil and political rights, I wish to highlight right to life. It is non-derogable right. Human Rights Committee has pointed out that it not only casts an obligation on the State, not to deprive one's life in an arbitrary manner, but also to take positive measures to ensure full flowering of this right. Without life, there can be no enjoyment of any other right.

Right to life is closely related to right to freedom from torture. Everyone has a right to physical integrity. The National Human Rights Commission, soon after its inception in October, 1993, issued instructions to all authorities to report any death in custody within 24 hours. It also made clear that any failure to do so will lead to a presumption that there has been an attempt to

cover. It asserts that "everyone who has been deprived of his liberty, shall be treated with humanity". Yet, we all know the torture is practised in India as well as among other countries of the world. All of us have a duty to uphold this human dignity by preserving the right to life and right to physical integrity.

The National Human Rights Commission receives a very large number of complaints related to torture and discrimination in custody. But, let me assure you, all the complaints received get the utmost attention that they deserve. Based on inquiries that the Commission gets conducted through the agencies of the State and through its own Wing, not only relief is granted to the victims of the violation of human rights but action - both administrative and criminal - is also recommended against the perpetrators of these violations. The Commission is firmly set against any shortcuts to the rule of law and extra-judicial methods of dealing with aberrations like Terrorism, Militancy and Naxalism. It strongly urges that these dreadful issues must be addressed without allowing the human rights of innocents to be violated. The facts related to killing of businessman in Connaught Place some years back, on account of mistaken identity, Shahabuddin's encounter case, the case of Ishrat Jahan and reported instances of encounters in Manipur, pose a serious problem in the protection of civil liberties. The National Human Rights Commission has come out strongly against encounters which are total abrogation of the right to life and not ordained by the rule of law. Clear guidelines have been laid for the State agencies to be complied with when dealing with conflict situations fraught with violence and violation of rule of law.

It is well known that the National Human Rights Commission was the first to visit Gujarat to see for itself the violations of human rights that had allegedly taken place there following Godhra incidents. It is on account of Commission's initiative that a large number of cases, including the Best Bakery Case, were transferred out of the State for investigation and trial. This has been stated with a view to underlining the need for preserving the rule of law and strengthening the criminal justice system and to preserve civil liberties and to prevent miscarriage of justice.

As for other civil liberties, they include, freedom from slavery, right to a fair trial, freedom of speech and expression, freedom to practice one's religion. Civil liberties are guaranteed with the provisions of Constitutional remedies for their enforcement in Article 32 which grants, the right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred. Article 226 of the Constitution also provides for enforcement of any of the rights conferred by Part-III of the Constitution and for any other purpose for the protection of civil liberties. Whenever instances of violation of these categories of civil liberties are brought to the notice of the Commission, cognizance is taken promptly and action is initiated. Besides

commitment to our Constitution which in its very preamble has laid down the fundamental rights, the NHRC is committed to the Universal Declaration of Human Rights also and to all the international conferences that followed this declaration. It is necessary to follow three guiding principles by the world community; the need to eliminate discrimination and build a just society, the cooperation by all States against terrorism, without using such cooperation as a pretext to infringe human rights and strengthen the commitment to the rule of law. And, of course, in our endeavour to achieve the goal of securing civil liberties, we have to synthesise international conventions with our domestic laws. The UN General Assembly has emphasized, in this context, that the States must adopt measures in accordance with the UN Charter and relevant provisions of international law, including international standards of human rights. Gandhiji had this in mind when he said "peace does not come out of a clash of arms, but out of justice lived and done".

The National Human Rights Commission since its inception in 1993 has been the forefront for the protection of human rights, for the prevention of their violations and for ushering in a regime governed by rule of law. It has made significant contributions to bring the human rights approach to legislation, policy and programmes in our country. Its contributions have gone beyond the expected role of investigating alleged violations, conducting public inquiries, exercising advisory jurisdiction, creating awareness and generating better coordination among State and international human rights institutions. Its contribution in the field of Child Labour, Rights of the Disabled, Education, Food Security, Right to Health, Right to Development and Good Governance. It has, particularly, taken deep interest in the Indian Criminal Justice System and Custodial Justice, Sexual Harassment and Trafficking of Women & Children. In short, it has set the agenda for a methodology towards a rights based approach to solving of conflicts and elimination of social evils.

Everyday, large number of people seek the intervention of the National Human Rights Commission for redressal of their grievances stemming from what they perceive to be violation of their human rights. These people belong to all parts of India and to different communities. The institution of the NHRC has created a forum for the people to seek redressal and relief for the violation of their rights and protection of their civil liberties.

To conclude, it is reiterated that human dignity is quintessence of all human rights and liberties. "All human rights for all" and "the world is one family" are concepts which are dependent on the expanded meaning of human rights assuring human dignity to every member of human race in the global village. Globalization of human rights by making them universally acceptable and eradication of global inequalities is the clarion call of the human rights movement. It can not be doubted that any humiliation of a human being is affront to his/her dignity and thus a violation of his/her right.

Consultation on Identifying Best Practices in Early Identification and Intervention for Children with Disabilities*

Dignitaries on the Dais, Distinguished Delegates and Friends.

Identification of children with disabilities and prevention of disabilities amongst them, besides being a humanistic approach is also an endeavour in generating a national human resource empowered to take part in all nation building activities. This task is both a challenge and a necessity. This is starkly so if seen in the context of the fact that children below 18 years account for nearly 44 percent of India's population. Of these, 158 million are extremely vulnerable. Over 50 percent of the children aged between 1-2 years are not fully immunized. They also suffer from other kinds of multiple disadvantages, viz. like 80 percent of children are anemic and sizeable number of them suffer from visual, hearing, speech, locomotive, mental and other types of disabilities.

These figures give us only an approximate idea of the children suffering from disabilities but surprisingly reliable estimates still elude us, though disability as a category was included in 2001 census for calculation of data.

Besides the pain of physical impairment children with disabilities are exposed to a wide range of discrimination like denial of basic human rights, access to education, healthcare and, above all, a right to life with dignity. Besides the trauma of living on dependence on others - which may come voluntarily or through institutions - is a hindrance to full growth and development. Therefore, it calls for an extraordinary human effort and equally extraordinary initiatives from the State to ensure complete integration of the children with disability in the mainstream.

Despite the different kinds of rights bestowed to these children by the Constitution of India, existing national policies, different governmental schemes and laws (like the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999), and the fact that the Government of India has ratified two United Nations Conventions - one on the Rights of Children and the other on the Rights of Persons with Disabilities, their abilities are overlooked and their capacities underestimated. For instance, a child in a wheel chair wants to go to school. But he or she may not be able to do so

**on 17th February, 2010 at Vigyan Bhawan, New Delhi*

because the school has no ramp and the Principal and the teachers are not supportive. We, therefore, need to change our thinking, attitude and the existing rules and regulations to accommodate these children.

Research studies conducted at the macro and micro levels have shown that a large number of disabilities can be prevented if precautionary health measures are taken by parents at the pre-natal, natal and post-natal stages so that the underlying conditions of disability are identified early enough and these children are rescued by way of timely health care. It is estimated that every year a large number of children are added to the category of disabled due to neglect of primary preventive care. Ignorance, inadequate hygiene and sanitation, malnutrition, pre-natal/natal complications, early child-bearing and lack of required care of the young mother during her pregnancy and infections in early childhood are some of the other factors responsible for disability among children. Developmental delays and mental handicaps are the most under reported of all disabilities. Experts say that large number of cases of disability can be prevented, if the risk is identified early enough and appropriate care is extended when the condition is just developing. Lack of early detection and treatment, in most cases, leads to major and stressful secondary handicaps of physical and intellectual nature, social and emotional behavioural problems among children. All these children end up leading lives which are singularly lacking in stimulation; for they know no difference between childhood, maturity or old age.

The situation with regard to disability amongst children is aggravated because of the few services which exist are mostly in cities which can be accessed only by the middle and upper strata of society. Even the rehabilitation strategies are focused largely on literacy and academic goals. A large number of children living in rural and tribal areas have no access to these services. While we boastfully acknowledge that children with disabilities are entitled to a life with dignity in the mainstream, the measures to achieve this noble objective are woefully inadequate. Even the sensitivity to respond to the needs and requirements of these children and remove the barriers being faced by them in their daily lives falls short of expectations.

India has a child friendly child sensitive constitutional and legal regime and policy environment and it is precisely because of these factors that the last two decades have witnessed a positive focus on persons with disabilities in general and children in particular. The reason for this new focus is explained broadly by the fact that the voice of persons with disabilities and of their advocates both from national and international forum is being increasingly heard within the framework of human rights treaties and United Nations Human Rights Treaty Bodies.

The Convention on Rights of the Children (CRC) which was adopted in

November 1989 was the first human rights treaty that contained a specific reference to disability (Rule 2 on non-discrimination) and a separate Article 23 exclusively dedicated to the rights and needs of children with disability. Since the Convention came into force, the Committee on CRC has paid sustained and particular attention to the kind of discrimination faced by children with disabilities all over the world while reviewing the State party country reports. Yet the children with disabilities continue to face difficulties in their respective countries and India is no exception to this given the fact that Government of India ratified the CRC in the year 1992 and the Convention on the Rights of Persons with Disabilities in 2007.

We have also in place some disabilities specific legislations. Section 25 of the Personal with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, is a case in point as it is relevant to the theme of today's deliberations. It lays down a range of measures for prevention and early detection of disabilities. Clause (C) of the said Section envisages screening of all children every year to identify 'at risk' cases. Today's deliberations would do well to highlight ways and means of evolving best practices for expediting and effective operationalization of these and other like measures that exist in our substantive law.

The need of the hour, therefore, is to take necessary action by making use of the above two Conventions by all stakeholders including the NHRC and the National Commission for Protection of Child Rights. In this regard, we should also make use of the General Comment No. 9 (Rights of Children with Disabilities) issued by the Committee on the CRC in the year 2006. This General Comment provides guidance and assistance to States Parties in their effort to implement the rights of children with disabilities, in a comprehensive manner.

The NHRC has adopted a multi-pronged approach for the protection and promotion of rights of persons including children with disabilities. This includes the redressal of individual complaints, suggesting legislative and policy reform, facilitating in providing requisite infrastructure and services, encouraging the efforts of NGOs, research, training and spreading awareness. Further, the Commission has also appointed a Special Rapporteur on Disability on the lines of the Special Rapporteur on Disability appointed in the UN.

In my view, it is of paramount importance that we in our country, first and foremost, should set-up and develop a sound mechanisms for collecting data which is not only accurate but also reflects the actual situation of children with disabilities. The importance of this issue is often overlooked and not viewed as a priority given the fact that it has an impact not only on the measures that need to be taken in terms of prevention but also on the

distribution of very valuable resources needed to fund programmes for them. One of the main challenges in obtaining accurate statistics is the lack of a widely accepted clear definition for disabilities. We must arrive at and establish an all-inclusive definition that guarantees the inclusion of all children with disabilities so that children with disabilities benefit from the special protection and programmes developed for them.

Presently, services for children with disabilities are delivered by various governmental and non-governmental organizations as well as with the assistance of international organizations. These services are by and large fragmented and not coordinated which result in overlapping of functions and gaps in provision. We need to set-up independent 'Focal Points on Disabilities' (on the lines of the Chief Commissioner for Persons with Disabilities that were established by the Government to implement the Persons with Disabilities Act, 1995) across the country that should be multi-sectoral, including all organizations public or private catering to the needs of children with disabilities. Other than this, we need to conduct awareness raising and educational campaigns targeting the public at large and specific groups of professionals with a view to preventing and eliminating de facto discrimination against children with disabilities. Awareness raising and educational campaigns should be in consonance with the National Plan of Action for Children evolved by the Ministry of Women and Child Development, Government of India in the year 2005. This Plan focuses on the goals, objectives and strategies and would pave the way for universal efforts to prevent and eliminate all forms of discrimination against children.

Before concluding I would like to state a deeply felt personal belief that before the State and the society step in with legislative framework, support systems and assistive measures and of course with liberal financial resources - the family and parents - can play a crucial role in detecting disabilities amongst children at the first point in time. No other body can replace them for early care and early intervention for the prevention of disabilities. More crucial will be their role in how they view their children with disabilities and how they do not allow any discrimination against them in their own family folds. The parents and the grandparents alone can prevent any feeling of being neglected or unwanted by bestowing love and affection in full measure. At psychological level there can be no substitute to family in making the child with disability feel that he is an important and integral member of the family and society. In fostering this culture and awareness the entire family will have to play a crucial role.

Today's Conference ushers in a consultative process which assumes great significance as all the relevant laws and policies of India will now be

harmonized with the UNCRPD in the wake of India ratifying the international treaty. Experience has taught us that we must actively promote and institutionalize a culture of shared learning amongst government agencies on the one hand and the government agencies and NGOs on the other. This exercise of sharing best practices should enhance both efficiency and effectiveness of our programmes. One must remember that children with disabilities are primarily and essentially children first, and then, they are children who happen to have a certain disability. I am sure that the deliberations of today's "Consultation on Identifying Best Practices in Early Identification and Intervention for Children with Disabilities" will prove a path breaking exercise. The NHRC and National Commission for Protection of Child Rights look forward to deliberations and suggestions during the course of the day.

*Illegal Medical Practice and Health Care Facilities in the Tribal area**

The National Human Rights Commission has adopted a pro-active role on the health front. The Commission has consistently taken the view that the right to a life with dignity, enshrined in the Constitution, must result in the strengthening of measures to ensure that the people and particularly those belonging to economically disadvantaged sections of society, have access to better and more comprehensive health facilities. It was because of this perception and with a view to widening its own understanding of the issues involved that the Commission has constituted a Core Advisory Group on Health comprising eminent doctors of the country. We have been taking advice of the Core Group on continual basis on all matters concerning health and human rights.

The last meeting of the Core Group discussed two very basic issues relating to public health i.e. unprofessional or illegal practices that have come to notice and inadequate healthcare facilities in the tribal areas. Today's meeting is the outcome of the deliberations of this Core Group. It has also been prompted by some cases that have come to the notice of the NHRC where persons having fake registration certificates have been found to have entered the medical profession. The Medical Council of India in the year 2008-2009 has got 41 FIRs registered in connection with fake registration certificates. The Commission feels that if such practices are not stamped out, they would pose serious hazards to the health of the patients and, therefore, deserve to be dealt with severely. The Members of the Core Group were unanimous that these were some of the grim signs of the deteriorating medical ethics and unprofessional approach which call for urgent reforms in the medical profession.

There is a paradoxical situation obtaining in India today. While, on the one hand, we have super-specialty medical centers which cater to the needs of patients requiring specialized and speedy treatment and which are also attracting medical tourism, but, on the other, very large number of our population remains deprived of the basic medical facilities and healthcare. It is in this area that the professionals and stake holders have to minimize these poignant inequalities in healthcare and make it accessible to one and all. We will do well to remember the deliberations of Alma-Ata Conference

**on 29th January, 2010 at National Institute of Health & Family Welfare (NIHFW), New Delhi*

which have urged the participating countries to put the people at the centre of healthcare. The conference also very rightly urged to promote health as a human right by launching a primary healthcare movement.

A close look at the home scenario is quite disturbing. First of all, health is not an issue in India just as it is in other developing or developed countries of the world like the United States of America and United Kingdom. It is neither a subject of public debate nor a political issue, though of course, schemes such as National Rural Health Mission have been put in place. It is true that our resources are not at the same level as are available to developed countries like America and other nations in Europe but certainly there cannot be two views that public healthcare has to become both a subject matter of political debate and a serious issue for discourse for civil society as well.

The key aspects of the right to healthcare are not just access to healthcare and building hospitals. It extends further. It includes a wide range of factors like freedom from non-consensual medical treatment, safe food, safe drinking water, adequate sanitation, health related education, non-discrimination gender equality etc.. It also includes right to a system of health protection providing equality of opportunity to everyone to enjoy highest attainable standard of health and right to professional treatment and control of diseases. Access to essential medicines is next most important component of the public healthcare.

India is a complex society where there is no uniformity of approach towards the health maladies that afflict the people. The public healthcare is a combination of the latest advancement in technology and medical sciences, traditional practices, time tested methods of indigenous treatment like herbs etc. Certain culturally approved practices also continue to prevail, especially, in the tribal areas of the country. In such a varied system of healthcare the professionals have to play an important role in converting the existing methods of cure and treatment into to credible systems. Woefully, it is lacking in India. Though the knowledge and understanding of health care are growing rapidly because of technological revolution and global stewardship, it eludes the Indian masses a major section of which are still languishing in health apathy. The situation with regard to essential drugs is still far from satisfactory.

The next most serious issue adversely affecting the public health in India is production and distribution of spurious drugs. With the growing number of persons in need of health care demand for drugs is steadily increasing. The situation has also worsened because of commercial considerations such as export of drugs from India to other needy countries. A study conducted by a body that represents Chambers of Commerce in India, has put fake

drugs industry at as high as 30% of all drugs sold in India or about Rs. 10,200 crores out of an industry that sells products worth Rs. 34,000 crores each year. It is difficult to say whether this claim is realistic or overestimated. Suffice it to say that even the Ministry of Health & Family Welfare have acknowledged the menace of spurious drugs and have amended the Drugs and Cosmetics Act 2008. The penalty for manufacture of spurious drugs has been enhanced to a minimum of 10 years imprisonment and fine of Rs. 10 lakhs. The Commission takes this opportunity today to draw the attention of the Drug Controller of India, Director General of Health Services and the Health Ministry to devise emergent methods of enforcement to stamp out this evil and illegal practice.

The tribal areas in India where, in absence of acceptable standards of healthcare, people resort to traditional methods and are often victims of quacks and unqualified practitioners who prescribe or dispense medicines of questionable veracity. They also fall victims to the tantriks and godsmen who claim powers to cure by way of magic and mantras. Their ability to access acceptable standards of health is seriously hampered by inaccessibility of their habitats and their cultural beliefs. Tribal population has their own problems which need to be understood. In a recent meeting of the NHRC's Core Advisory Group on Health, a member of the group narrated his experience of two areas one in Andhra Pradesh and other in Kerala. He gave an example of a social worker who was visiting a tribal area. She got injured but due to inaccessible area and lack of basic medical facilities, she could not receive any medical care resulting in fatal complications.

Besides treatment being handed out by quacks and unqualified practitioners, doctors holding bogus degrees / certificates have entered the medical profession posing a serious threat to the health care in India. In one of his speeches on health issue, the Prime Minister of India, Dr. Manmohan Singh has emphasized the need for reform in the medical sector and checking the dwindling ethics. Illegal practices in medical sector have come to the notice of National Human Rights Commission as well as Medical Councils. It was primarily with this motivation that today's meeting has been called to devise ways and means to stop all illegal activities in medical sector and promote healthcare in inaccessible and tribal areas.

In this meeting of stake-holders the NHRC has taken special care to invite representatives of the Medical Council of India and the health departments of the States and Centre. Because it is the Commission's belief that if these two agencies coordinate and regulate the functions of the medical profession in India, lot of ills that affect the system today can be removed.

Finally I would like to make it very clear that the NHRC is not seeking a role for itself to duplicate the efforts being made by various executive agencies. There are many areas which are unattended to or results are unsatisfactory due to administrative or financial constraints or defective health policy of the Centre and the States. The NHRC is trying to work as a catalyst to engage and collaborate with various agencies - government or non-government - mainly to activate them and pool in the untapped resources. It is NHRC's belief that only an exceptional response ensuring mass-mobilization of every sector of society can generate comprehensive health care. I hope that if all of us synergize our efforts and resources we shall succeed in insuring this fundamental right i.e. right to health to all. The NHRC looks forward to your interventions and suggestions during the course of the day.

*Rights of Persons with Disabilities in Commonwealth**

Hon'ble Minister for Social Justice and Empowerment Shri Mukul Wasnik ji, Hon'ble Chairperson, NHRC, Members, NHRC, Mr. Shuaib Chalklen, UN Special Rapporteur on Disability, Dr. Purna Sen, Head of Human Rights, Common Wealth Secretariat, distinguished guests from commonwealth countries, other dignitaries and friends. On behalf of the National Human Rights Commission, it is my proud privilege to extend to you a very warm and cordial welcome to this very important seminar on rights of persons with disabilities. Without doubt, an event of this nature assumes greater relevance as the world community of nations has adopted a highly progressive and forward-looking treaty in the form of the United Nations Convention on the Rights of persons with disabilities (UNCRPD) which has already been ratified by many countries, and, which is in the process of getting ratified by many others.

The first Human Rights treaty of the millennium that it happens to be, the UNCRPD is informed and influenced by the expertise of lived experience of persons with disabilities. It is this process of its formulation which accounts for a very significant paradigm shift in the manner in which disability is understood. It marks a definite and distinct departure from the medical model to the human rights based model of disability. Governments are no longer supposed to be working for persons with disabilities as charity. Rather, they are under obligation to work for them as a matter of their rights.

The Convention recognizes that disability results from interaction between persons with impairments and the various barriers that exist in society which hinder their participation on an equal basis with others. Very rightly, this treaty underscores the need for respect for difference and acceptance of persons with disabilities as part of human diversity and humanity and also envisages that disability is an evolving concept. Emphasizing the need for promoting respect for the inherent dignity and worth of persons with disabilities, it distinctly mandates, inter-alia, identification and elimination of barriers to ensure non-discrimination and also of universal and inclusive design of goods, environment, facilities, etc.

Recognition of persons with disabilities as persons before the law, elaboration of civil and political rights with equal emphasis together with economic,

**in the Inaugural Function of the Seminar on Rights of Persons with Disabilities in Commonwealth on 14th January, 2011 in New Delhi*

social, and cultural rights, provisions for addressing inter-sectional concerns of disability with gender, age, etc. are amongst some other prominent features of this legally binding treaty.

It goes without saying that India is amongst the countries which ratified the Convention as early as in 2007 itself. The constitutional, legal and policy environment in India together a strong edifice of positive jurisprudence on disability rights which has, over the years, been built following progressive interpretations of the law by our vibrant judiciary offers us a huge advantage for implementing this Convention. The Constitution of India, in Chapter 3 envisages a comprehensive range of fundamental rights for all its citizens which apply to citizens with disabilities in equal measure. At the same time, the Directive Principles of State Policy, vide Article 41 also refers to "disablement" in relation to the states obligations to strive to secure to certain categories of people, the right to education, work and public assistance. In addition, there exists a set of four disability specific legislations including the Persons with Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act, 1995.

It is indeed a happy augury that the process of fulfilling India's obligations under this legally binding treaty is already under way with the constitution of a Committee to prepare a draft of a new law to replace the existing PWD Act. The said committee, which also comprises representatives of the disability sector, is due to submit its report to the Government by the 31st of March this year. We hope that the process of harmonizing other disability specific legislations as well as the relevant mainstream legislations will also start soon.

The National Human Rights Commission of India has significantly contributed to the negotiation process of this Convention, and is now engaged in, inter alia, monitoring its implementation in India including monitoring the harmonization process of relevant laws with the UNCRPD. Given the fact that the current relevant Indian law also contains many progressive provisions, the Commission is also reviewing the implementation status of such law in some states of the country. Capacity building of stakeholders on disability rights, awareness-raising and sensitization of the general public also figure prominently in the Commission's work on rights of persons with disabilities. The Commission has also taken up with the Govt. of India the question of preparing and submitting India's initial/country report in close consultation and with active involvement of persons with disabilities as mandated vide Article 35 (4) read together with Article 4 (3) of the UNCRPD.

I would like to conclude by emphasizing one more important aspect relating

to measures to minimize the impact of disability on the persons affected by it. It goes without saying that medical science and technology are engaged in research of wide ranging aspects of human ailments and disability. There is need to explore this field with a view to providing assistive tools to the persons with disability covering all aspects of impairment. For example, the latest aids in hearing, visual aids to prevent progressing deterioration of vision, to help persons walk with the help of Jaipur foot and other prosthetic and orthotic aids etc. There are instances of persons who became almost totally impaired physically in Iraq war but with the help of latest tools provided by technology, they are able to live their life with increased sense of purpose and dignity. I take this opportunity to exhort all the participants to accord due thought to this aspect also. I would also like to mention that Persons with disabilities can be equally productive citizens. Our history is full of examples where such people have had a profound effect on our civilizations. Heller Keller, poet Surdas in India, Milton, Eric Louis Braille and Stephen Hawkins are just few of such examples.

In the end, welcome you all, once again to this seminar which is a collaborative effort of this Commission with the Human Rights Unit of the Commonwealth Secretariat. It is a part of the Commission's larger strategy to promote a culture of shared learning and cross-hybridization of ideas amongst nations in an attempt to promote full, effective and expeditious implementation of the UNCRPD.

I hope that this collaborative effort with the Commonwealth Secretariat will take this work forward and go a long way towards strengthening the rights based model approach towards persons with disability. I hope important outcomes will emerge from this seminar on the basis of deliberations among the participants.

*Poverty and Human Rights - Opening Remarks of Chair**

Earlier approaches to defining poverty focused only income and consumption, (such as the dollar a day definition). In more recent times, poverty is defined in terms of the lack of choices and capabilities necessary for enjoying an adequate standard of living and human rights¹. It is both the cause and consequence of lack of human rights. Poverty has an inverse relationship with the enjoyment of human rights. It is obvious that poverty affects the enjoyment of social and economic rights, such as the right to food, right to health and right to shelter.

How about civil and political rights. Exercise of civil and political rights also involves expenditure. For instance, the right to move freely within the territory of one's country is meaningless where the individual cannot afford travel. Also poor people who are struggling for basic survival typically do not have the social, cultural and economic tools to exercise their political rights.

A recent report by the UNDP pointed out that a human rights based approach to poverty should be centred on the following three principles:

- Universality, non-discrimination and attention to vulnerable groups
- Participation, empowerment, transparency and accountability
- Indivisibility and interdependence of rights²
- Poverty :- Encompasses Economic, Social and Cultural Rights and Civil & Political Rights.

NHRC, India believes that NHRIs can play a crucial role in promoting these three principles in not only poverty alleviation programmes but also in all aspects of governance. Of these three principles outline above, the

¹ Committee on Economic, Social and Cultural Rights "Poverty and the International Covenant on Economic, Social and Cultural Rights" E/C.12/2001/10.

² Operationalizing Human Rights-Based approaches to Poverty Reduction - Interim Pilot Project Report (UNDP, April 2007) pm available at http://www.hurilink.org/tools/UNDP_HRBA_PilotProject.pdf (last visited on 4 April 2007).

*on 16th April 2008 in U.N. office in Geneva Members Shri P. C. Sharma is to Chair after the meeting. The chair is to brief in I.C.C. about deliberations Poverty and Human Rights - Opening Remarks of Chair

indivisibility and interdependence of human rights is now widely accepted. I hasten to add however that while the principle is widely accepted, as a global community, we lag behind in realization of what interdependence actually would mean on the ground.

The experience the world over has been that poor persons are often victims of human rights violations than others because of their vulnerability. The complaint mechanisms of NHRIs and their training programmes, cater to ensure that the poor people are empowered to seek enforcement of their rights. For instance, in the early 1980s, the Supreme Court of India widened the principle of locus standi to enable public interest litigation, which in turn led to the development of a jurisprudence that was remarkable for its social welfare approach and was beneficial to the poor. The NHRC, India takes suo motu notice of complaints, thus ensuring that even where the putative complainant has not approached us for remedy, the violators can be held accountable. In many countries, people who are discriminated or excluded from public goods (employment, education, health and housing) are usually poor and their poverty prevents them from seeking redress. In such situations, NHRIs as watchdogs can examine the provision of public goods to ensure that marginalized sections are not left behind, deliberately or through oversight and as mentioned before, tailor their complaint mechanisms to ensure that the indigent can approach them.

NHRC, India has been consistently involved in promoting a human rights based approach towards poverty. Due to paucity of time, I will limit my discussion to our interventions on right to food and right to work. A case relating to starvation deaths in the eastern State of Orissa was remitted to NHRC, India by the Supreme Court of India in 1997. In this case, the Commission decided that rather than follow a confrontational approach with the state, a constructive dialogue approach with the state government should be adopted. The NHRC, India suggested a range of special measures covering emergency food supplies, employment programmes, afforestation, preventing soil erosion, rural water supply schemes, public health care, land reforms and so on. The Special Rapporteur of the Commission visited the affected areas and monitored the ground situation. The gaps in implementation were pointed out by the Special Rapporteur and the NHRC, India made several observations on the long term and short term measures which could be adopted. The lessons arising out of this, include the need for drawing up rights-based action plans, independent monitoring of the issue, through mechanisms such as the Special Rapporteur, especially since the victims being very poor are hardly in a position to monitor the situation.

In this connection, I would like to cite a path-breaking initiative taken by the

Govt. of India towards alleviation of poverty. The Govt. has introduced National Rural Employment Guarantee Act, 2005 which recognizes the right to work as a fundamental legal right. The Act envisages securing the livelihood of people in rural areas by guaranteeing 100 days of employment in a financial year to a rural household. It provides that employment be given within 15 days of application for work and if not so provided, daily unemployment allowance in cash has to be paid. It provides a social safety net for vulnerable households, and an opportunity to combine growth with equity. A social safety net of this dimension has not been undertaken ever before anywhere in the world. This programme was launched on 2 February 2006. Over 14 million households have benefited under the Rural Employment Guarantee Scheme operational in 130 districts. One third of jobs were reserved for women, who currently represent 40 per cent of beneficiaries. This scheme has been expanded to cover the entire country from 1 April 2008.

As starvation deaths have been reported from other states also, the Commission decided to examine the issue holistically and constituted a Core Group on Right to food in 2006. The suggestions of the Core Group include the constitution of 200 watch committees with expertise to deal with malnutrition to independently monitor the food distribution system, as leakages are rampant, ensuring that local bodies be held accountable under all schemes for provision of nutrition, increasing awareness of the people about their rights under various schemes and dovetailing right to food with employment generation to ensure sustainable livelihood.

Our interventions on the right to food show that human rights based approach to poverty, should take a holistic approach, including within it both long term and short term approaches. The short-term approach may include provision of food through the public distribution system, but a long-term approach that is based on a right-based approach will ensure that people are not forever dependent on doles from the government. This is consistent with the right to respect for human dignity.

The above example highlights certain key factors to be taken into account in developing a human rights based approach to poverty. This include: drawing up of action plans, independent monitoring, use of long term and short term measures that are consistent with human rights, ensuring that public authorities are held accountable and building of capacity of the poor to enforce their rights. NHRC, India believes that NHRIs can play an important role in all these respects.

While concluding, I would like to quote Justice S. Rajendra Babu, Chairperson

of the National Human Rights Commission of India:

"National and international strategies addressing poverty reduction need to take into account the human rights dimension of poverty and its remedies. The essential idea underlying the adoption of a human rights approach to poverty reduction is that policies and institutions for poverty reduction should be based explicitly on the norms and values set out in the international law of human rights. Whether explicit or implicit, norms and values shape policies and institutions. The human rights approach offers an explicit normative framework - that of international human rights. Underpinned by universally recognized moral values and reinforced by legal obligations, international human rights provide a compelling normative framework for the formulation of national and international policies, including poverty reduction strategies."

Role of NGOs in Support of NHRC in Better Promotion and Protection of Human Rights*

The growing number of cases of violence in custody has been a matter of great concern for the National Human Rights Commission, the Government and the civil society demanding accountability, transparency and reformation of law enforcement agencies that are entrusted with the task of maintaining standards of custodial institutions. This violence often takes place in police lock-ups and prisons screened from public gaze. But its dramatic exposures by media have often outraged the civil society. They are no longer supine and meet spectators of assaults on human dignity especially when it is inflicted by those who are meant to protect it. The degree of public outrage sometimes manifests itself in - uncontrollable fury leading to serious breaches of public order. Therefore there are demands from legal functionaries, human rights groups, non-governmental organizations, women rights activists and concerned citizens generally that the functioning and performance of those engaged in the task of administering criminal justice system or dealing with crime and punishment be scrutinized in depth and with greater concern.

The complaints received in NHRC mostly relate to indiscriminate arrests, torture inflicted on arrested persons while they are in lock-up or on remand, false implication in cases, fake encounters etc. In this regard enquiries conducted by NHRC, Public Interest Litigations filed in courts, magisterial enquiries conducted in the State jurisdictions and reports received from NGOs raise a serious question: "If people are not safe in police or judicial custody, where can they be safe". The existing situation therefore demands an urgent review of the performance and functioning of the authorities concerned and also a serious look at existing legislation.

The custodial torture has been a major priority for NHRC ever since it was established in 1993. It has issued guidelines in December, 1993 itself enjoining upon all States that all cases of custodial death or rape be reported within 24 hours of their occurrence. The Commission has also urged the Government of India to fulfill its promise to ratify the UN Convention Against Torture which it had signed on 14th October, 1997. It is now learnt that the Ministry of External Affairs has initiated action in the matter and has emphasized upon the authorities concerned the need for affecting changes in the domestic legislations in order to bring its provisions in conformity with the UN

**Two-days NGO conferece on Role of NGOs in Support of NHRC in Better Promotion and Protection of Human Rights held on 28th and 29th April, 2007 at Bangalore*

Convention Against Torture. This is a significant step towards creating an environment in which life in custody whether in a police lock-up or in prison will be free from violence, both physical and mental.

The plight of prisoners inside the jails has also been a matter of critical concern of the NHRC. In fact, Section 12 of the NHRC Act mandates the Commission to visit any jail or any institution where persons are detained or lodged to study the living conditions of the inmates and make recommendations thereon. The Commission undertakes this task from time to time and has been suggesting measures with regard to decongesting jails, improving sanitary conditions and crating better medical facilities.

Close analysis of complaints that NHRC receives--almost daily--about custodial violence has revealed utter insensitivity, reluctance verging on refusal to take lawful action, over protectionism and acute absence of accountability as some of the significant reasons of this most degrading facet of human rights violations.

What should be done? Failure of police leadership in most cases is stark and glaring. Political leadership who are the masters and who control the police have far too many vested interests in keeping the status quo unchanged. Legislation has also remained unhelpful and there is serious dichotomy between what was legislated in the past and what is being enacted or sought to be enacted now.

Provisions relating to arrest, remand and bail are not being uniformly followed and applied. In fact, sometimes utter ignorance of these provisions is noticed on the part of some of the authorities engaged in the task of administering criminal justice system.

Judiciary, of course, has been the beacon of life in this dark scenario. Taking suo motu cognizance of serious instances of custodial violence and instances brought to their notice through legal procedures, they have punished the perpetrators of such violence and applied course corrections. D.K. Basu case was a landmark judgment as it contained very essential guidelines for the police to follow while affecting arrest. But as we all see, judicial directions have also not entirely resolved the problem fully. I strongly feel that as long as the provisions relating to arrest stay on the statute books, this task is going to be very difficult though not impossible. Justice Krishna Iyer, a crusader of human rights both inside and outside the judiciary has decried arrest as the most primitive assault on human dignity.

But can we do away with arrest, remand and judicial custody? To my mind, the answer is very difficult, as subjecting persons accused of criminal offences to custodial interrogation is a measure adopted by investigating agencies all

over the world. And, it is also legally permissible.

The only answer lies in empowering the civil society, creating awareness among them about their rights and more significantly generating a will among them to assert themselves whenever their rights or the rights of others are in jeopardy.

Spreading awareness about human rights through publications, training programmes, workshops, conferences, such as the one being held today, are among the primary functions of the NHRC. It is our firm belief that among the criminal offences listed in the Indian Penal Code, custodial violence is absolutely preventable and avoidable. It is towards this goal that our deliberations in today's Conference will be directed. I am sure, that the interest shown by the various NGOs who are present here is an indication of their interest in this noble goal. Your presence, would lend a thrust to this drive and have the salutary impact on all those wings of governance and the civil society who are engaged in the task of guaranteeing custodial justice.

*Ethics and Corporate Governance**

India is a nation of billion plus people and has now emerged as a trillion dollar economy. This has come about after sixty years of attaining independence. At sixty, when people in governance superannuate, India's economy has come of age. It is full of vigour, it is full of vision and it holds a great promise. Today, the tribe of Indian millionaires and billionaires is steadily growing. Indian companies are now engaged in aggressive acquisition and merger drives abroad. These developments signify that Indian business and industry have benefited from the growth process. In this rapidly changing domestic and global scene, driven by process of globalization, markets -- technology etc. it is difficult to fathom the ramifications for the corporate sector.

In the post-independence economic history of our country, there is a paradigm shift in our policies. In the pre-independence days and until recent past, the corporate sector had minimal role in the economic growth and development of the country. Now the government has reduced its entrepreneurial role yielding economic space to private sector. The private or the corporate sectors have acquired a predominant role in the management of India's economy and human resources. I would be approximating an axiomatic truth if I say that India's corporate sector is in the vanguard of our march towards becoming a global economic power. Quite naturally, therefore, a stage has come that the corporate sector - I mean the Indian corporate sector - sets sound corporate governance as one of its goals.

I am sure, the members of the illustrious gathering present here this morning, especially those deeply engaged in the task of managing corporate affairs, can offer a precise definition of corporate governance. To my mind, the standards by which companies are directed and controlled, relevant laws of the land as well as internal rules of a corporation maximizing revenues, making best of the human resource and above all integrating all this with overall national growth and prosperity fall within the definition of corporate governance. This definition surely would entail - as any other definition would - the question: what is the role of ethics in corporate governance. It perhaps lies in the means adopted for attaining the corporate objectives. This leads us close to the Gandhian precept: means are as important as the goal.

*Key Note address on "Ethics and Corporate Governance" organized by Tata Group, IIM, Bangalore, National Law School, Bangalore & others on 28th September, 2007 in New Delhi

The key elements of good corporate governance are honesty, trust and integrity, transparency, responsibility and accountability, mutual respect and commitment to the organization.

It is conceded that the growth process must aim at maximizing revenues, but it must be conducted in a manner that it ensures growth not only of the corporate sector but the overall growth of the nation. I strongly believe that corporate growth and nation building must go hand in hand. In a globalizing world aided by advancements in technology and latest techniques in management, the rich no doubt get richer, but there is need to ensure, that the poor do not get poorer. It is imperative that corporate affairs are administered in a manner that the resulting benefits reach even those driven to the margins of human existence and empower them to constitute a firm foundation of these modern-day pyramids of capital growth.

There is need to evolve a harmonious environment, an environment in which citizens feel equally involved in the process of economic growth, an environment in which each citizen sees hope for a better future for him and his or her children. If rising income levels of the corporates are not matched by corresponding rise in incomes across the nation, wealth inequalities will multiply and social unrest is sure to follow. In other words, in a modern, democratic society, business must realize its wider social responsibility.

The Ten Point social charter spelt out by Prime Minister Dr. Manmohan Singh, at the CII Annual General Meeting, 2007 included healthy respect for the workers, and investment in their welfare, corporate social responsibility, employment to the less privileged, resisting excessive remuneration and discouraging conspicuous consumption and investment in people and their skills. At the same time the Prime Minister exhorted the industry to invest in environment friendly technologies, promote enterprise and innovation, fight corruption at all levels and promote socially responsible media and finance socially responsible advertising. This is the crux of ethics of business.

India's economic growth has entered a critical phase. It is shedding fast its image of a bullock-cart economy dependent, as it was, solely on agriculture. Business is multiplying and industry proliferating. Both the government and the corporate sector are coming out with new strategies and innovations. Privatization, setting up of Special Economic Zones relaxing controls in spheres of import and export are some of the radical measures which our government has taken in partnership with corporate sector to boost economic growth. These measures have aroused mixed feelings: rising high hopes on one side and total hostility on the other. The result is that we have a serious conflict situation on hand which poses formidable challenge before the corporate world. But, to my mind, this conflict situation can be resolved if corporate goals are aligned to the community development.

Quest for excellence is a sound ethical principle. While it enhances the confidence of the stake-holders, it also raises the credibility of the corporate entity. The Tatas are hailed for uninterrupted supply of electricity in the city of Mumbai. The success they achieved in this field is always cited as an enviable example of good corporate governance. Yet another example-an example of unrivalled excellence - is the management of Anand Milk Union Limited (AMUL) in Gujarat by the management icon - Dr. Kurian. The total turn over of this cooperative dairy sector is much higher at 6,000 crores. It has 25 lakh producer members and 12,792 village societies. After the Green Revolution, it has ushered in White Revolution in the country. The driving force behind both these ventures is an obligation to the community - to protect their interest through maximum productivity and efficiency. A corporate entity that is sensitive to the surroundings and to the needs and aspirations of the community in which it operates not only creates goodwill and a strong market for its business, but also helps support a sustainable neighbourhood. Corporate social responsibility must ensure that the benefits and opportunities emerging out of economic and industrial growth are made available to all.

While expanding their industrial and business empire, the Tatas have always accorded community development the status of a veritable goal. Speaking at a meeting at Madras in 1969, JRD Tata said "Let industry established in the country-side "adopt" the villages in its neighbourhood; let some of the time of its managers, its engineers, doctors and skilled specialists be spared to help and advise the people of the villages and to supervise new developments undertaken by cooperative effort between them and the company. Assistance in family planning in the villages would be particularly valuable form of service, none or little of this need be considered as charity..... The benefit of such joint ventures will do no doubt initially flow chiefly to the village, but it is also clearly in the interest of industry that surrounding areas should be healthy, prosperous and peaceful. (The Joy of Achievement - R.M. Lala page 12-13)."

Development, including that of the community is the prime objective of the State and the corporates but to make it sustainable, it must be based firmly on the foundations of education. It is critical that education is accorded top priority. Economic growth can not be taken forward and sustained without expanding the literacy base. Ladies and gentlemen, let me say this with all the conviction at my command that even technology without education cannot ensure sustained economic growth. Investing in education - along with taking initiatives for economic growth -- should be the motto and mantra of all good governance. It has to be of course clearly understood that education should not mean only financial literacy, it should be an instrument

for strengthening the moral fiber, building a set of ethical values vital to corporate governance and nation building as well.

In a Parliamentary democracy such as ours having a sound Constitution which guarantees equality of all citizens, respect for the rule of law has should inform all plans and developmental strategies. No corporate entity should live under the belief that their wealth and clout can bestow immunity on them. Our Constitution and democracy do not permit immunity for unlawful activities and also do not confer special status on any entity - no matter how big or small its economic output is.

My past background of serving in CBI and current assignment in the National Human Rights Commission command me to say something about corruption and human rights. Nothing erodes the confidence of the people in corporate governance - or for that matter any form of governance - as adoption of corrupt practices and unfair means and displaying utter disregard for human dignity.

Corporate frauds have rocked our industry, business and fiscal system from time to time. The stock market scam of 1992 exposed the nexus between brokers, bankers and public sector undertakings. Rules, regulations were blatantly violated and weaknesses in the system were exploited. Brokers traded in securities without actually possessing them. Call money transactions which are inter bank borrowings, were between brokers and the banks and the funds for such transactions were obtained from the PSUs. Portfolio management schemes were misutilized for illegal gains. Financial accommodation was readily given to brokers who utilized the funds for subversive activities in stock market. This, however, did not deter those companies which had utter disregard for norms. Their unethical trade practices resulted in yet another stock-market scam in 2001. A well-known mercantile bank (Mercantile Cooperative Bank) lent 800 crores to a group of companies owned by a smart broker. Armed with these huge funds - belonging to thousands of shareholders - he violated all RBI guidelines and launched "speculative assaults" on the stock exchange. Results was sudden collapse, chaos and confusion.

UTI scam, when it burst, exposed corporate misadventure. It was the direct consequence of corrupt practices which gave a complete go by to all ethics in corporate governance and displayed utter disregard for the crores of share holders. It is well-known that many companies have managed - or are still managing - to avail credit facilities by submitting forged/fudged financial statements. They resort to illegal diversion of funds. As per an estimate of National Council for Applied Economic Research, there was a flight of 10 billion dollars between 1990-1997.

Only day before yesterday, a leading newspaper of Delhi reported a

fraudulent activity indulged by a leading bank. The indictment of the bank by the court was severe and deserves to be quoted.

"The bank has committed the grossest kind of deficiency of service in raising false bills without proving the delivery of the credit card. Such practice is causing immense mental agony and harassment. Those hapless customers are constantly living under the threat of recovery of the amount by the bank employing musclemen."

Such corrupt activities lead to shortfall in government revenues, destabilization of domestic enterprise and poison the culture of good governance . There are innumerable studies on record which show that corruption alone can wipe out all efforts towards ethical governance and economic growth. There is perhaps an endless list of similar examples in the corporate world. You can expect little from a corporate entity which prides itself on its enormous wealth, but resorts to unethical practices to evade taxes, custom duties and circumvent regulatory powers of the government.

The story of collapse of Enron Corporation owing to crooked executives committing accounting frauds, false valuation of assets, fraudulent income manipulations and outright theft by senior company managers, is a typical example of the outcome of corrupt practices.

Another incident that can not escape our attention is the Union Carbide tragedy that occurred 27 years ago. It is an acute reminder to the corporate world that any let up in the management techniques, lowering of standards, disregard for the safety of humans who toil for them can lead to disastrous consequences. 8,000 men and several thousand animals lost their lives. Since then around 20,000 deaths have been attributed to this disaster. It is painful to say that it has taken almost three decades for the executive and the criminal justice system to accord some relief in terms of financial compensation which can hardly be described adequate. This tragedy represents a collapse of management skills, human values and total absence of welfare measures. Such tragedies need to be seriously analysed and right lessons learnt.

Honesty in all ventures, transparency in all deals and accountability for all acts of malfeasance must form the bed-rock of the corporate culture. But honesty, as the British writer John Ruskin noted, can never be based on policy. Corporate house cannot mandate ethical business behaviour any more than the weather bureau can summon rain or shine. But they can ingrain it in the character of the organization --- through tradition, value system and a commitment to the letter as much as the spirit of laws and regulations.

Our Constitution, in its preamble, guaranties life of dignity to all its citizens.

And dignity of life is the essence of all human rights. Human rights culture mandates that this dignity is accorded to the workers and the managers alike. Discrimination based on cast, creed, language or region has to be scrupulously abjured in matters of employment opportunities, welfare and sharing of corporate wealth. Exploitation of labour ---- unhealthy work environment, inadequate remuneration, absence of welfare measures, can all constitute a serious threat to human dignity - the most sacrosanct right among all the human rights.

Other human rights concerns that always need urgent attention are non-discrimination, right to life and liberty, employees rights, child labour, forced and bonded labour, right to food, health and education, housing and environmental rights. Economic rights along with social and cultural rights have also been recognized by international community as human rights. The corporate entities engaged in economic growth can play a yeoman's role in protecting the economic rights of the citizens --- certainly of those who, in partnership with them, are helping them attain their goals.

Finally, we need to ponder what is the best use that all corporate wealth can be put to. Is it meant only for an individual or a corporate entity. Can it be seen in isolation of the community which participated in achieving the corporate wealth. The answer lies in Mahatma Gandhi's concept of trusteeship in the following words:

"suppose I have come by a fair amount of wealth - either by way of legacy, or by means of trade and industry - I must know that all that wealth does not belong to me; what belongs to me is the right to a honourable livelihood, no better than enjoyed by millions of others. The rest of my wealth belongs to the community and must be used for the welfare of the community".

Silicosis *

The exposure of cases of silicosis in the recent past have attracted the attention of the NHRC as it has been opined by the experts that silicosis poses a serious health hazard. What is worse is that the persons who get affected are labourers coming from not only unorganized sector but from poorest strata of the society.

The number of persons who have been reported to have died from this disease is very large and it has been asserted that if the disease is not detected and treated at the initial stages, it can have serious consequences and be even fatal. In some States like Rajasthan, Madhya Pradesh and Gujarat it is reported that hundreds of persons suffered from this disease while working in mines, quarries, quartz cutting industries etc. It is learnt that Government of Madhya Pradesh, considering the seriousness of this health hazard has closed down a number of factories and mines sites. This State is perhaps the only State to take up this commendable step.

The issue has to be judged not only from the point of view of the serious threat to the health of the workers that it poses but also from a human rights angle as it involves right to life. While other diseases like HIV/AIDs, TB, polio, malaria etc which are mass killers have received sufficient attention of the authorities, silicosis has not received has remained a low priority. In fact it was ignored until a large number of cases came to notice and aroused the concern of the authorities.

From scrutiny of the complaints received relating to deaths by silicosis and also from on the spot visits carried by NHRC, it has been noticed that the Departments like labour, insurance, industry etc which are vitally linked to the issue of regulating the mining sector have paid inadequate or no attention to this. The safeguards provided under the Act, the minimum wages entitlements, periodical medical check ups and treatment of patients of silicosis have not been enforced at all. As per study conducted by NIOH, about 30 lakh workers in India are at high risk of exposure to silica. This fact should be sufficient to raise alarm and immediate measures to save the workers from this killer should be taken up on priority.

Despite constitutional provisions and rulings of the Supreme Court the reality of the health situation in the country, in general, and occupational health, in

**at National Conference on Silicosis on 1st March, 2011 in New Delhi*

particular, is a cause for concern. The National Human Rights Commission has consistently taken the view that the right to a life with dignity, enshrined in the Constitution, must result in the strengthening of measures to ensure that the people of this country, and particularly those belonging to economically disadvantaged sections of society, have access to better and more comprehensive health care facilities.

Let us not ignore this aspect simply in the belief that the State or the private entrepreneur obliges workers by providing them a source of livelihood. Rather, it has to be clearly understood that they are vital instruments in our developmental and infrastructural activities and therefore, deserve care and attention as the employers themselves receive. In short - it, is the duty of the employers to protect the health of his employees.

As we know, Silicosis is a lung disorder caused by exposure to silica during activities like mining, stone crushing and quarrying activities. It profoundly affects the overall productivity of the workers, economic and social well being of individual workers and their dependents.

The State, whether it is the employer or not, has a duty - as protector of its citizens rights - to ensure through its regulatory systems that people working with them should not suffer from serious health hazards like silicosis. It must hold its functionaries accountable to ensure that the workplaces of these workers are safe, through proper implementation of labour laws as well as use of all the possible precautions. Institutional monitoring mechanism must work efficiently. It goes without saying that the people affected by silicosis are duly compensated, treated and rehabilitated.

Installing dust control devices, use of wet drilling and dust extractors are some of the steps to reduce dust - generation. The monitoring authorities must ensure that these preventive steps are taken by employers to protect the health of workers.

The attention of the Commission was drawn towards the plight of tribal workers who returned to their native villages in Madhya Pradesh after contracting Silicosis while working in quartz/stone crushing factories situated in Godhra, Gujarat. The Commission sent a team to ascertain facts. Based on the report of investigation team, the Commission noted that the State Agencies concerned had failed to adopt appropriate preventive measures, which could have saved the lives of the poor labourers. After an enquiry - The Commission has recommended a sum of Rs. 3,00,000/- (Rupees Three Lakhs Only/-) each be given to the next of the kins of the 238 deceased by the State Government of Gujarat. Further it has also recommended that 304 persons, who are suffering from silicosis and are staying in the State of Madhya Pradesh be given a rehabilitation package by the State Government of Madhya Pradesh.

In 2009, the Commission had found that there were about 7000 sand stone quarries employing over 40,000 workers in Jodhpur, Rajasthan. According to the Commission's investigation team sent for an on the spot enquiry, 21 persons had died due to silicosis and 44 persons were found suffering from silicosis who were working in the sand stone mines in Jodhpur. Pursuant to the efforts of the Commission and directions to the State Governments, we have been informed recently that Government of Rajasthan has announced an ex-gratia payment of Rs. 1 lakh to the next of kins of 21 persons who died due to silicosis. The Government has also issued a notification in respect of measures to be adopted for prevention of silicosis.

The Factories Act, 1948 provides the Government with sufficient leverage to take measures for protection of workers especially, those in hazardous industries. Silicosis is notifiable disease as listed in Third Schedule for the purpose of section 89 and 90 of the Act. Permissible limit of exposure to Silica dust are also defined. Section 89 provides for the treatment of patients certified for suffering from such a notified disease and payment of fees of medical expenses to be recoverable from owners of factories. Section 90 provides for the State Government to direct enquiry into cases of accident or disease specified in Third Schedule.

As per Section 85 of the Factories Act, all or any of the provisions of the Act shall apply to any place wherein a manufacturing process is carried on notwithstanding number of workers if the respective State Government notifies in the official gazette to this effect. The Commission has noted that many States have not done this.

Many of the silicosis prone industries are in unorganized sector. However, even under the Contract Labour (Regulation and Abolition) Act, 1970, there is a provision for registration of an establishment which employs 20 or more workmen and employer has a duty to maintain the records. The State Governments have an obligation to ensure that these records are duly maintained and the preventive and remedial measures recommended by the Commission are duly implemented.

The workers affected by silicosis whether in organized sector or in the unorganized sector must be provided free treatment and rehabilitation. The cost of the treatment should be borne by the employer. The victims of silicosis should be rehabilitated by offering an alternative job which they could perform. If he/she is unable to work they must be given sustenance pension as well as their family taken care of adequately. It has also been brought to the notice of the Commission that the workers of unorganized sectors have not been provided identity cards. As a result they are not able to prove their employment and become ineligible to file for compensation under the

Workmen Compensation Act. It is for the district administration to ensure that these steps are implemented in letter and spirit.

Additionally, a significant aspect that needs attention is the activities of the labour contractors who mobilise the ignorant and the poor workers to migrate from one State to another to earn their livelihood. The State from which the contractors mobilize the labourers and the State in which these workers serve must take full responsibility to protect their health as well as their wages.

The Supreme Court in number of judgements has clearly laid the law that the State could not hide behind the veil of economic incapacity in ensuring right to health which is in fact, the inalienable with the right to life, as envisaged under Article 21 of the Constitution.

The commitment and obligation towards health to all does not limit itself to the State alone. It transforms itself as a commitment of the civil society as well, in order for the people to gravitate to a State of health for all. The workers vulnerable to silicosis need to be made aware of the disease through wide publicity campaigns with the use of electronic and print media. This will facilitate early detection and improve the workers' defence against this dreaded disease.

Hence, there is need for better response system in place through an energetic civil society movement assisted by alert media doing its job with integrity and unbiased approach to remove such threat to life and ensure a healthy society. NHRC is committed to facilitate and support the efforts of the authorities as well as the member of the civil society in ensuring a better deal to the people affected by the dreaded disease.

*Police and Human Rights**

Police as it has been conceived in the Police Act, 1861 and its subsequent amendments is a wing of the Government to protect human life and property, investigate crimes and maintain public peace. Thus, in other words, police has a vital role in creating an environment for protection of human rights.

Over the years, the above role of the police has expanded and has become even multifarious. The new legislations that have been enacted after the independence have put a serious strain on the police sources.

After independence, the citizens of the country have become more and more aware of their rights which the Constitution of India guarantees them. The discrimination and inequalities that existed in the society created sociological turmoil as both the government and the society demanded full protection ensured under the constitution.

While the police is still engaged in the task of investigating crimes both relating to human rights and property and the security of the nation, they have quite justifiably come under criticism for the abuse of authority. This abuse has manifested mainly in the following main spheres:

(i) Registration and investigation of crime

The general criticism of the police that there is disinclination on their part either to decline registration of crime or delay it. In this sphere, they are also accused of succumbing to pressures of extraneous quarters. Refusal to take lawful action on the complaint of people is a serious violation of their human rights.

(ii) Custodial violence:

While carrying out investigation of crimes - both conventional as well as serious - police are accused of adopting an unprofessional approach and resorting to physical harassment, which on many an occasion, resulted in fatal consequences to the persons in custody.

(iii) Fake Encounters:

During the last decade and a half, especially, the police has become

**In a function regarding release of Shri B.L. Vohra's book on Police and Human Rights (Hindi) on 7th August 2007 in New Delhi*

known for carrying out fake encounters of those whom they take into custody first on unjustifiable grounds and, later, do away with their lives in fake encounters. Where there is a threat to the security and integrity of the nation by militants and insurgents, no body has questioned the armed combat leading to deaths by security forces including police, but there are numerous examples where police has resorted to fake encounters in order to eliminate even persons accused of conventional crimes.

- (iv) False implications in cases, unjustifiable arrests and physical harassments is what the police is perceived to be all about. Although it is a fact that police force in the country working under difficult circumstances have done commendable work both in the sphere of investigation of crime, preserving security and integrity of the country and in maintain public peace.
- (v) Attitude towards weaker sections of the society including children and women:

There are sociological aspects of the functioning of the police. After independence, large number of social legislations have been enacted with a view to providing protection to the scheduled castes, scheduled tribes, minorities, women, children and legislations relating to prevention of trafficking in women and children. There are numerous instances in which police conduct has not been above board and they have been accused of either giving no priority to these crimes or ignoring them altogether.

The National Human Rights Commission has been conscious of all these things and have highlighted the need for urgent reforms in the functioning of the police. I would like to add, the Commission while deprecating unlawful or unjustifiable conduct of the police has also taken note of the rights of policemen themselves like their unhealthy living conditions, unfavourable pay structure and unfavourable working hours etc.

For bringing objectivity in the investigation of crimes such as custodial deaths, fake encounters etc, the National Human Rights Commission in as early as 1993 issued instructions that all cases of custodial deaths and fake encounters should not only be intimated to it within 24 hours but also investigated by an independent agency. Similarly detailed guidelines have also been issued in the matters of arrests. These guidelines include guidelines issued by the Supreme Court in the D.K. Basu case as well.

Besides issuing instructions, various programmes have been undertaken by the Commission to sensitize and train the police force and para military forces towards the need for protecting human rights of the people and preventing their violations.

I am happy to say that these programmes have elicited very positive response from police organizations and their training institutions.

In cases of custodial violence where negligence of deliberated action on the part of the police has been established, the Commission is empowered to grant interim relief/compensation which has been given in a number of cases.

Wherever abuse of power has been established, the Commission as per powers conferred on it by the Act also recommends registration of cases against recalcitrant police officers and their prosecution.

It has to be understood that human rights is a new creed that must inform the functioning of all departments including police force. A great responsibility lies on the police force, especially, as it is the only force which comes into contact with public more than any other wing of the government. Also, it is the police force - despite all allegations made against them --- that the public, whenever their rights are threatened, turn to for protection and lawful action. Therefore, there is a growing need for an attitudinal change and reorientation towards adopting humane approach towards the society in general and in performing their duties relating to prevention and detection of crime in particular. In this field perhaps structural changes including certain changes in the Police Act, serious restructuring of the training programmes and most of all, a deep participation by the supervisory level of police officers is required.

*Terrorism and the Indian Experience**

Terrorism, taking birth in diverse situations and jurisdictions thrives under various banners like religion, political ideology and fundamentalism of various hues has acquired a fanatical force and extended its reach beyond local boundaries.

What are the ways to fight this culture of violence which is motivated by the zeal to spread intimidation, coercion and to instil fear? How well prepared is the world community to face this new phenomenon. Any delay on our part in reversing the rising trend of serious menace will not raise the costs in terms of human lives, but also gravely endanger civilized existence.

First of all it is essential to have a complete understanding of the profile of modern day terrorism. Its nurseries have to be identified; its lethal power will have to be well understood; its support bases within or outside our jurisdiction have to be pinpointed. The methodologies employed by the state must outclass strategies and resources of the terrorist organizations.

The next crucial factor in fight against terrorism is to get the support of the society. Nothing is more crucial to winning such a support than an assurance of guaranteeing safeguards provided in the constitution and the criminal justice system. Nothing can weaken our response worse than the erosion of the people's confidence in governance and deterioration of the rule of law.

While it is possible to confront this issue with combination of democratic and economic programmes which are free from discrimination and corruption, the legal system in place will need to be activated, too. It will have to be ensured that the terrorist acts are established as serious criminal offences in domestic laws and regulations and that the seriousness of such acts is duly reflected in sentences served.

The scheme of governance accords pivotal position to criminal investigation in the criminal justice system. The status and legal authority conferred on police to empower them to carry out investigation of terrorist crimes put them along with paramilitary forces in the vanguard of fight against terrorism. At international level the police community will have to be in full gear to succeed in this enterprise.

**on 9th December, 2010*

Conducting investigation of terrorist crimes, especially, in the conflict situation is difficult task, much different from investigating conventional crimes. It is still more difficult if the terrorist outfits have cross-border linkages, for in such cases, the success will depend on legal measures like deportation, extraditions etc. These procedures are not only laborious and cumbersome, but often, face hurdles posed by the domestic laws of the requested states. A criminal act here may not be viewed as such by the extraditing states which may not accept the request for extradition on this basis alone. Additionally, extradition requests are sometimes viewed with suspicion as the requested states think that criminal investigations - no matter how well these are sanctioned or justified by our laws are construed as political persecutions or political vendetta. Many an extradition was not entertained by the requested countries on this ground which is often espoused forcefully by an outlaw or his attorneys.

But there are instances when requests for extraditions --- based on sound legal inputs and forcefully pursued by diplomatic efforts have been accepted and the wanted persons handed over.

Deportation is still more an arduous task, for it will depend on the level of cooperation and good relations existing between the requesting and the requested states. Again there are several instances - and I am personally acquainted with a few of them - where protracted diplomatic pressures accompanied by assurances of mutual cooperation in criminal matters have helped in seeking deportation of criminals wanted in investigations.

In fact, it is not the extradition and deportation of persons accused of terrorist crimes alone that are essential in criminal investigation, rendering assistance in making available witnesses and evidence - which is forensic, physical and documentary in nature - is also crucial to the success of investigation and securing convictions in the courts of law.

I have spoken at length about these legal measures for these are absolutely essential to the conduct of investigations and trials in court.

A factor often ignored and absence of which is fatal to criminal investigations is the speed of response to the commission of terrorist crimes. If the measures to block escape routes are not mounted immediately, if the search for physical evidence is not launched speedily and if look-out notices are not despatched without loss of time, investigations are bound to become protracted, evidence will weaken, if not altogether destroyed or damaged. It has happened in past in cases like Bombay blasts in 1996 when almost all wanted persons managed to flee the country to their safe heavens. It was a similar experience in Purulia Arms drop case in which the chief architect of the trans-border

crimes Kim Davis managed to escape and is still beyond our reach.

Please let me make this clear that when I say this, it is not meant to ascribe any negligence or lack of will to act. Sometime the enormity of the terrorist strikes is so vast, and the extent of destruction and the damage caused is so huge and resources are so constrained that these aspects so vital to criminal investigations are not attended to with the promptitude that they deserve.

Interpol notices - so vital to seeking international cooperation in locating and apprehending the outlaw are quite critical to the success of criminal investigations, especially in which fugitives have taken shelter in other jurisdictions. Member countries must accord the Red-Corner Notices the greatest importance and ensure they lead to effective look-out by the different law enforcement agencies.

No doubt, like preparing an extradition request, it is laborious process, but our effort must be guided by the belief that a prompt despatch will evoke a prompt response. It was the Interpol red corner notice which - though belatedly - led to the arrest of Abu Salem. And it was a well-crafted extradition request that led to his final extradition to India where he is being prosecuted.

It is absolutely necessary to review past experience and put a well-oiled response machinery in place. A lot has, indeed, been achieved in this direction and the results have been encouraging.

Terrorism in India is remarkable for its diversity, its varying degree of violence, its intensity, its geographical locals and, very significantly, for its inter-state ramifications. The state is put to its most difficult test in fighting terrorism when it has inter-state ramifications.

Often, jurisdictional considerations impede the speed of investigations. Also witnesses, physical evidence and relevant documents may not be available in the jurisdiction of the state where the terrorist act has been committed. The investigating agency is faced with a difficult task in conducting such investigations. The answer to overcome such situations is to have a nodal or central agency having legal authority to suo-moto register such crimes and conduct investigation. The setting up of the National Investigating Agency fulfils this requirement to a large extent.

Finally, we are faced with a much larger issue which is much different from the criminal acts of terrorism committed by an individual or group of individuals. And that is the state sponsored terrorism or acts of terrorism committed by loose affiliations with the like-minded groups transcending geographical boundaries for a commonly perceived cause. Such terrorism

has been described variously as clash of civilizations, conflict of ideologies and religious fundamentalism. In its thrust approach it retains its character as essentially given to violence, subversions and disorder as opposed to civilized existence.

This is the most important aspect of terrorism that the Security Watch must address. It has already become the agenda of the international community, especially of states seriously affected by this manifestation of terrorism. This batter cannot be fought through criminal investigation alone. Of course, international covenants, treaties for mutual cooperation will play significant role. To my mind, consensus among nations to share intelligence, demolish safe haven or sanctuaries of terrorists; integrate international law, UN Convention treaties, Covenants into the domestic law are imperative measures that the international community accord due importance. Recognizing that financial support is a factor which promotes terrorism, the Security Council Resolution No. SC/7158 is also effective measure deserving ready and unconditional implementation.

Finally it is, time to translate these concerns into workable solutions. In doing so we have to seriously reflect how best we can achieve a commodity of approach not only for tackling interstate acts of terrorism, but trans-national terrorism as well.

*Human Rights literacy among in Army**

First and foremost, I would like to take this opportunity to congratulate the 3rd division of the Indian Army for organizing this Seminar at Karu. By organizing this Seminar, the Army has shown its concern regarding protection of human rights and promotion of human dignity once again. I am sure; this Seminar must have provided an apt forum to facilitate sharing of ideas, experience and information on human rights issues. I compliment the organizers for their overall efforts and hard work in organizing this two-day seminar so as to spread human rights literacy among the armed forces and promote awareness of the safeguards available for the protection of these rights.

The significance of human rights for the armed forces need not be overemphasized. Infact, to the best of my knowledge there is no comparison of the Indian security forces in addressing human rights concern. This is because much before the National Human Rights Commission came into existence in October 1993, the Indian Army had institutionalized the aspect of Human Rights by creating 'Human Rights Cells' at Army, Command, Corps and Forces HQs level, in insurgency prone areas. These Human Rights Cells, as you all know, monitor human rights issues and ensure that violation of human rights is promptly investigated and the guilty punished. Further, in 1993 itself, the then Chief of the Army Staff had issued the 'Ten Commandments' to all serving personnel. 'Respect Human Rights' is one of the commandments mentioned therein. Likewise, instructions by the Corps Commanders to their troops with regard to the conduct of armed forces personnel in situations involving civil populations. These instructions too focus on 'Respect of Human Rights'.

The Indian Army is ranked today as one of the best in the world. It has been playing a unique role in the security and integrity of the Nation. From the dawn of independence it has successfully guarded the Nation's frontiers against external aggression, be it the aggression of 1947, 1962, 1965, 1971 and more recently during the Kargil war. And what is equally laudable is it's role in rendering aid to civil authorities in times of internal strife and in combating forces which posed a serious threat to the very integrity of the Nation. This can be traced from the Indian Army's role in the Hyderabad action, in Mizoram, infact, in large parts of the Northeast, in Punjab and their continuing role in Jammu & Kashmir. Also, it's role has been universally

**Seminar on Human Rights organised by The Indian Army held on 15th April, 2005 at Leh*

acknowledged in several peace-making missions undertaken in various parts of the world.

While these achievements are a matter of legitimate pride and glory - not only for the members of the Indian Army but for the entire nation, they also raise high expectations and cast a heavy responsibility and that is protecting Human Rights and dignity in theaters of conflict and militancy.

Dealing with the internal security situations, each different from the other the Army comes in contact with the public and unavoidably, at times, has to use force, minimum, though, it may be. The understandable but misplaced anger of those who have not come out unscathed may well be directed against the Army in the form of accusations of Human rights violations. It is in situations in which life of our citizens at large is endangered by hostile and disruptive elements that our security forces have to tread cautiously, ensuring the safety of the lives and properties of the people. I am aware it is not an easy task. It is easier said than done. But it has to be done.

It is my firm belief that by and large, the basic instinct and reaction of a soldier in most of the situations is to protect human rights and uphold human dignity. The factors responsible for development of this attitude and reaction to a large extent are - discipline and compassion inculcated in the armed forces right from the time a soldier is enrolled into the service. This apart, the armed forces being an all-India cadre treat everyone alike. And, since the armed forces are not politically aligned with any ideology or party, they serve the State and uphold the fundamental rights of individuals as enshrined in our Constitution in all its earnestness.

This being the reality, I wonder, how violations of human rights are then committed? The Human Rights Commission within days of its establishment was confronted with the tragic death of civilians in Bijbehara, in the State of Jammu & Kashmir, in the course of a firing by a para-military force. The Commission took suo-motu cognizance of the incident and, after examining the reports for which it had asked, concluded that excessive force had been used. It accordingly called for appropriate action against those responsible, sought a thorough review of operating procedures, improvement in the training of para-military personnel, and immediate interim relief for the next-of-kin of the deceased and those who had been wounded.

I fully appreciate that the protection of human rights in areas afflicted by terrorism or armed insurgency poses special problems for those who are determined to uphold and ensure respect for such rights. These are, at times, compounded by the necessity of the State, in extreme cases, to use force against terrorism, a course of action that can lead, either through error or

excess, to the violations of rights and the jeopardizing of the life and dignity of those who are innocent. The tragedy and irony of such situation is exacerbated by the fact that terrorists, who themselves are the implacable enemies of civil society, and who hold the rights and values of such society-including the right to life - in contempt, are quick to invoke the protection of such rights when under siege.

The Commission has thus been at great pains to impress upon the armed forces of India and the police that, even as they must perform their duty to the nation to fight and triumph over terrorism, they must do so in consonance with the rule of law and taking into consideration the rights of all the people who inhabit it. The Commission is profoundly grieved when reports are received both of terrorist excesses, and of the excessive use of force by the instrumentalities of State, of unaccounted disappearances or of death, in circumstances that are suspicious, and where allegations are made of "false encounters".

As some of you may perhaps be aware that the Supreme Court of India has, in *D.K. Basu vs. State of West Bengal*, cautioned:

"State terrorism is no answer to combat terrorism. State terrorism would only provide legitimacy to terrorism: that would be bad for the State, the community and above all for the rule of law. The State must, therefore, ensure that the various agencies deployed by it for combating terrorism act within the bounds of law and not become law unto themselves".

The Commission is of the firm view that a proper observance of human rights is therefore not a hindrance to the promotion of peace and security. Rather, it is an essential element in any worthwhile strategy to preserve peace and security and to defeat terrorism. To put it differently, national security undoubtedly is of paramount importance. Without protecting the safety and security of the nation, individual rights cannot be protected. However, the worth of a nation is the worth of the individuals constituting it. Article 21, which guarantees a life with dignity is non-derogable. Both national integrity as well individual dignity are core values in the Constitution, and are compatible and not inconsistent. The need is to balance the two. Any law for combating terrorism should be consistent with the Constitution, the relevant international instruments and treaties, and respect the principles of necessity and proportionality.

It is for these reasons that the National Human Rights Commission has continued to remind the agencies of the State that they must act in conformity with the Constitution, the laws of the land and the treaty obligations of the country. The Commission has also from time to time draw the attention of

the Armed Forces to the need to observe the guidelines laid down by the Supreme Court in respect of the Armed Forces (Special Powers) Act, 1958, and to the implications and meaning of the provisions and principles laid down in the Indian Penal Code in respect of certain situations in which the use of force can extend even to the causing of death. While declining to entertain petitions regarding infringements of human rights by the Armed Forces the Supreme Court in a candid manner firmly issued a note of caution regarding the extent of use of military power. The court struck a balance between the security needs of the country and the contemporary norms of civilized behaviour. The basic theme of the judgement warrants a careful scrutiny. It underlines a firm resolve to equip the State with effective means to deal with disturbed areas. At the same times it cautions against use of unbridled authority.

Furthermore, the National Human Rights Commission, in its interaction with the Ministry of Defence and military authorities has also emphasized the need for both alertness and restraint. It has taken up the manner in which it construes the provisions of section 19 of the Protection of Human Rights Act relating to the procedure to be followed with respect to the Armed Forces when allegations of Human Rights violations are brought against them. In other words, the commission has taken the position that in the case of unnatural death caused by the use of force, or disappearance from custody, unless it can be satisfactorily be shown that the custodian is not responsible for the harm done in custody, or disappearance from custody, the initial presumption of accountability of the custodian will remain unrebutted and the commission will proceed to act accordingly.

At this juncture, let me also tell you that the human rights situation in Jammu and Kashmir has continued to receive close attention of the Commission. A number of favourable developments, as you all know, have eased the political situation in the State. In a resounding triumph for democracy, free and fair election was successfully held in the State despite the menacing threats of terrorists and their masters. Despite these positive developments, many incidents have been recorded/reported involving militants wherein a large number of civilians were reported to have been killed. The Commission too has received complaints, many of which listed a dozen or more instances alleging serious violations of human rights.

Deeply concerned about the allegations relating to alleged violation of human rights by the security forces, the Chairperson of NHRC held a meeting with the Former Chief of Army Staff. The Army Chief shared the concern expressed by the Chairperson and apprised him of the various constructive measures taken by the Army leadership.

It is heartening to know that Human Rights figure very high in the Army's operational matrix and it remains committed to do "everything possible" to further improve its track record in this field. The Army Chief stated that upholding human dignity and personal values, as also mitigation of collateral hardships to the public are the corner stones of the Army's professional ethos while operating in militancy affected areas.

Along with speedy dispensation of justice, prompt action was initiated by the Army to provide immediate soccours and solace to the aggrieved. All forms of assistance was also being extended towards rehabilitation of the victim and restoration of the individual's dignity.

Here a question may well be asked: does the National Human Rights Commission have any care for the difficulties faced by the Army? Indeed it does. It will never rush to judgement lightly. It will always weigh the facts and circumstances with outmost care and balance. But when it reaches the conclusion that rights have been violated, the Commission will say so, and expect compliance with it's views. The Commission has observed the care with which the Army has responded to its enquiries and directives and actions that have been taken to bring to book those who have been guilty of violating Human Rights. It has also seen the increasing emphasis being given in training, at all levels, to respect Human Rights; it has noted, in addition, that Standard Operating Procedures have increasingly reflected this concern. The commission is aware, too, of the casualties that the Army has taken in increasing restraint. It respects the fortitude of those involved, and it has acted - to the maximum of it's capacity - to ensure that soldiers and their kin are treated with the gratitude and respect that is rightly theirs, not least when it comes to the sad subject of benefits. The Commission is only too conscious of the fact that monetary recompense can never compensate for the loss of a life; indeed, the right to life is the supreme right, that all have a duty to respect and protect.

*The Western Region Review Meeting on Mental Health **

India is in grip of a large number of medical problems and health issues. Since the advent of independence the population of our country has grown alarmingly. The nation was grimly reminded of the seriousness of the situation by the Union Minister of Health who said recently that we are sitting on a time bomb. HIV / AIDs has risen, diabetes has assumed alarming proportion, malaria is still rampant. Name a mass killer disease it is there in India and it is there at alarming scales. Sensing the grimness of the situation, a perceptive journalist has remarked that India needs to be put in Intensive Care Unit.

Added to all this is another serious health issue and that is the rising incidence of mental health illnesses. It is estimated that there are 2 crore people in our country who are in need of treatment for serious mental disorders and above 5 crore people who are affected by any mental disorders ranging from stress related manifestations to total mental disorders. It is a grim scenario when contrasted with insignificant number of mental health hospitals or mental health centres that are available in the country. They are just 40 in number. Considering the growing incidents of mental health problems and taking into account a growing population and geographical vastness of our country, this problem poses a big challenge not only to the State but to the society as well.

For the first time a massive database has been built in respect of mental health laws and services across the country. The picture which emerges is not a happy one. The 1987 Act and the State Mental Health Rules of 1990 appear to have made little impact on the ground realities. None of the parties involved can be absolved of having abdicated their responsibility in this regard. Disinterest/apathy of the mental health professionals is equalled by the torpor of executive, which appears to be content to abdicate its responsibility to the judiciary. It was the intervention of the Hon'ble Supreme Court in CWP No. 334 of 2001 which has virtually forced the State Governments to enforce strictly the regulatory provisions

Since health is a State subject, we are here to evaluate as to what has been done or being done in the Western Region in the sphere of mental health services. The National Human Rights Commission has embarked upon this

**The Western Region Review Meeting on Mental Health organized at Pune on 24th July, 2009*

exercise with a view to awakening the State authorities to this growing menace to the health of the citizens and to encourage reforms and change in the health sector, motivate authorities to expand infrastructure, increase service capacity and encourage experts to share their skills and good practices.

Life without good health is neither a life of happiness, nor is it a life of dignity. While most physical ailments inflict suffering and pain, mental disorders are nothing but indignities as physical pain is often absent. It calls for a very high degree of sensitivity on the part of professionals in mental health field who often treat mental patients without their consent which --- understandably-- cannot be obtained in each case. In this connection the story of an orphan woman allegedly raped by the staff of a Nariniketan -- reported in Indian Express of July 21, 2009, makes it a poignant case for consideration not just a pro-life issue but a live example of human rights. The Honourable Supreme Court has stayed this termination of the woman's pregnancy saying that "mental retardation could not be a ground for termination of pregnancy". Further, they have directed the administration to provide all possible "medical and psychological support" to the victim. This order of the Honourable Supreme Court should serve as a great lesson for all professionals in human rights education.

The National Human Rights Commission is of the firm view that mentally ill people are entitled to treatment with dignity just as other human beings are. It is firmly against any stigma being attached to the mentally ill, for it robs them of their dignity and violate human rights.

The National Human Rights Commission conducted an empirical study of mental hospitals in the country with the help of NIMHANS and after going through the findings, the Commission severely indicted the state of mental health institutions observing that these are just dumping grounds for families to abandon their mentally sick members for economic reasons or lack of any understanding and awareness of mental illness. It was also observed that conditions in many of these settings are deplorable and violate the patients rights to be treated humanely and live a life of dignity.

The Commission's resolve to deal with the mental health issue was strengthened by the mandate of the Supreme Court who directed that the NHRC should monitor the functioning of the mental hospitals at Agra, Ranchi and Gwalior. The scope of this mandate was later expanded following the recommendations made by Channabasavanna Committee which covered all mental hospitals in public sector.

Visits to these mental health centres made by our Special Rapporteurs and, at times, by Members of the Commission have been both rewarding and

revealing as well. Capacity expansion, upgradation of facilities and treatment skills, expansion of infrastructure etc. are some of notable achievements. But some highly unsatisfactory aspects of the functioning of these Centres that adversely impact on their performance have also come to notice. Shortage of trained staff, particularly nurses, inadequate OPD facilities, shortage of standard drugs, have been found to be critical areas that deserve serious consideration. What is worse is the tendency or disinclination among young professionals to adopt mental health care as part of their job profile. Equally disturbing is the attitude of the authorities to push reforms in these sectors.

National Human Rights Commission has been continually urging the Health Ministries, Medical Councils, both at the Centre and the States, to make it a compulsory component of the medical curriculum. Passing examination in mental health care has to be made compulsory. Serving in rural areas has to be made mandatory for career advancement. It has been the Commission's experience gathered from our visits, interaction with institutions such as RINPAS and NIMHANS that some of the problems being faced by mental health care programmes have arisen from paucity of resources while most others are the consequence of poor implementation, inadequate commitment to this issue and, of course, corrupt practices noted in the medical profession.

Prime Minister Dr. Man Mohan Singh has expressed that the Government would accord top priority to health and education. Often we see and read about great deal of attention being accorded to maladies like HIV/AIDS, TB, malaria, cardiac problems --- all mass killers. It is hoped that authorities concerned, while devising strategies for implementing the Prime Minister's vision will cover mental health sector, too. Let us resolve that mental health no longer remains a neglected issue.

It is now widely acknowledged the world over, and by the World Health Organisation, that setting up requisite number of mental health centres is neither feasible nor, as the experts say, is it desirable. The focus has shifted to setting up community based centres. Of course, the existing mental health centres should have adequate number of trained staff, sufficient stock of drugs for curing mental illness. In this regard I would like to take this opportunity, to assure you, Ladies and Gentlemen, that NHRC will continue to maintain its vigil over all programmes and policy initiatives, social endeavours in mental health sector with a view to expanding its reach far and wide, especially in rural sector. I was deeply impressed by community based programme in Khunti, a rural hamlet near Ranchi, when I visited this centre last month. This programme is being run by RINPAS and some highly dedicated volunteers from rural areas. Generous help being extended by RINPAS and high level of team spirit displayed by social workers including young boys and girls is a laudable endeavour worthy of replication all over the country.

The monitoring being conducted by NHRC has yielded significant results: admission and discharge functions have been substantially streamlined in a number of hospitals. All this is in accordance with the provisions of the Mental Health Act, 1987 and the UN principles for the protection of persons with mental illness and improvement of mental health care being implemented. The Commission has fully endorsed the shift from custodial confinement to treatment and care involving the social community. It is clearly in favour of the National Health Policy 2002 which pithily puts the programme as follows: "The network of decentralised mental health services for ameliorating the more common categories of disorders is envisaged. The programme outline for such a disease would involve the diagnoses of common disorders and the prescription of common therapeutic drugs by general duty medical staff. In regard to mental health institutions for indoor treatment of patients, the Policy envisages the upgrading of the physical infrastructure of such institutions at Central government expenses so as to secure the human rights of his vulnerable segment of society". **

**** Ref. "Mental Health An Indian Perspective" by Dr. S.P. Agarwal**

Analysing conditions prevailing in government hospitals, the Commission has made recommendations regarding patient care, admission, discharge, rehabilitation facilities, morale of the staff etc. These recommendations were sent to the authorities concerned both in the State and the Centre.

The affairs of the mental hospitals at Ranchi, Agra and Gwalior had come under the scrutiny of the Supreme Court of India through a number of PILs filed by public-spirited activists. The Supreme Court laid down the following aims and objectives:

- i. Developing advance diagnostic and therapeutic facilities.
- ii. Improving social and occupational rehabilitation facilities.
- iii. Starting post-Graduate Training Courses in the field of Psychiatry Clinical Psychology, Psychiatric social work and Psychiatric nursing.
- iv. Expanding of Mental Health services at community level.
- v. Conducting short-term courses for Medical and Paramedical personnel.
- vi. Undertaking research in the field of Behavioural and Neuro Sciences.

In the case of Chandan Kumar Bhanik vs. State of West Bengal (1988) the apex Court observed: "Management of an institution like the mental hospital requires flow of human love and affection, understanding and consideration for mentally ill persons; these aspects are far more important than a routinized, stereotyped and bureaucratic approach to mental health issues".

In the case of *Sheela Barse vs. Union of India and others* the apex Court observed as under:

- Admission of non criminal mentally ill persons in jails is illegal and unconstitutional;
- All mentally ill persons kept in various central, district and sub jails must be medically examined immediately after admission;
- Specialized psychiatric help must be made available to all inmates who have been lodged in various jails/sub jails;
- Each and every patient must receive review or revaluation of developing mental problems;
- A mental health team comprising of clinical psychologists, psychiatric nurses and psychiatric social workers must be in place in every mental health hospital.'

In the judgment of the apex Court in *Rakesh Ch. Narayan vs. State of Bihar* certain cardinal principles were laid down by the apex Court. These are:

- Right of a mentally ill person to food, water, personal hygiene, sanitation and recreation is an extension of the right to life as in Article 21 of the Constitution;
- Quality norms and standards in mental health are non-negotiable;
- Treatment, teaching, training and research must be integrated to produce the desired results;
- Obligation of the State in providing undiluted care and attention to mentally ill persons is fundamental to recognition of their human right and is irreversible.

Rehabilitation of Long-Stay Patients is an urgent issue which this conference must address today. To my mind it is a dire need and a challenge both to the state and the civil society engaged in this task.

The Commission has noted sadly that the implementation of its recommendations and those of the Hon'ble Supreme Court of India has been tardy and painfully slow. There are instances where patients have been found languishing in mental hospitals without any fault of their own and the rehabilitation of the patients is in utter neglect. May I remind this august assembly that the Commission will be entitled to assume that those States/ authorities who have failed to comply with the directions of the Supreme Court are committing contempt of Honourable Supreme Court. The Commission, therefore, wishes to draw the attention of the States concerned

about the Supreme Court judgement with regard to quality assurance in mental hospitals.

Research and development is an accepted principle for achieving improvement and progress. I am constrained to say that this area has not received the urgency that is required to face the challenge of mental health problems in the country. NIMHANS has played a leadership role in this field for long and has evolved many innovative solutions through research and development which need to be shared. Each mental hospital must strengthen its own R&D facilities and come out with effective health systems including diagnosis, cure and treatment. The underlying principle that should guide all efforts in the sphere of mental health care is that ****"Every life has equal value"** (Chris Hohn), founder of the famous 'Children Investment Fund'.

**** Ref. the book "Giving" by Bill Clinton**

There is a need for mental health professionals to remain sensitive to the changing values and attitudes accompanying social, economic upliftment programmes. They should exercise their democratic rights to influence public opinion in this regard. It is also pertinent that no model is sacrosanct. Our programmes should be flexible enough to adjust to such changes. There are, however, some values that are eternal or should be. Those who are weak and powerless should be supported and helped by others to live in a manner that raises their self-esteem and adds to their happiness. ******

**** Ref. "Mental Health An Indian Perspective" by Dr. S.P. Agarwal**

Finally, nothing can be more inspiring than the example of Baba Amte who served the sick and poor in this very State of Maharashtra. Nothing can be a better example of service, affection and care rendered to the sick and the poor by Mother Teresa. After Jesus Christ we have Mahatma Gandhi in our own times, who served lepers and treated them with his own hands in his Ashram. We cannot think of better galaxy of men who can guide us and light our path in the service of the mentally sick and socially abandoned. Let us resolve to learn from the example of these icons in all our endeavours to tackle the mental-health problems.

*Detention in Juvenile Justice Homes**

The Juvenile Justice (care and protection of children) act, 2000, subsequently amended in 2006, has been established with a view to protecting the rights of **children in conflict with law and also extends its mandate to those children in need of care and protection**. This includes mentally and physically disabled children, sick children or children suffering from terminal diseases no one to support or look after them; children who are abused or tortured or likely to be abused or tortured; children likely to be inducted in drug abuse, and children victimised by armed conflict or natural calamity.

In order to realise the purpose envisioned in the law, it is essential for the State governments to take certain mandatory steps like constituting institutions under the Juvenile Justice System, namely, Juvenile Justice Boards (speedy trial of children in conflict with law), Observation home (temporary reception of children in conflict with law), shelter home, Child Welfare Committees (for children in need of care and protection), Children's home (reception of children in need of care and protection).

It has come to the notice of the **National Human Rights Commission**, while monitoring the implementation of the JJ Act that many states are lagging in fulfilling their mandatory obligations. Even where the institutions have been established, the **functioning mechanism is plagued with several gridlocks**. For instance, JJB (Juvenile Justice Boards) have been constituted but they fail to abide by the 4 months deadline within which the inquiry is to be completed. This leads to rising **pendency of cases**, leaving the children to languish in homes for years together.

Similarly, merely erecting structures in the name of observation/children homes does not solve the purpose as the persistent conditions yet remain deplorable. The children are made to live away from their lawful guardians far longer periods than legally tenable, in **unhygienic and pitiable conditions**, dispossessed of all rights. Their needs of health care, education, recreation and vocational training are rarely met to the desired standards. There have been several cases where children lodged in these homes, have lost their lives due to **medical negligence**. Many children in need of special treatment for instance, those who are mentally challenged, are not given specialised care and are made to live with the other children, in dereliction of their needs.

**Conference on Detention, Talking points for Member Shri P.C.Sharma- Session: Detention in Juvenile Justice homes held on 11th - 12th, October, 2008 in New Delhi*

On my visit to a children's home in Gujarat, I had witnessed the plight of a young child, handicapped in a manner that he could only grow horizontally, he was bed ridden for years. The authorities never had the inclination of paying attention to his special medical requirements. The advancement in science and technology could definitely come to the aid of this little child, but who had the will? Surely not the personnel in the homes.

Children are kept in these homes for safe custody. Although what is looked upon as a safe haven often turns into a **breeding ground of exploitation**, where the children are abused, physically, sexually and mentally, often by the staff members.

These dreadful realities have surfaced only after personal visits, as **inspections by authorities rarely materialises**. The Special Rapporteurs, have been deputed by the Commission, have been specifically asked to include visits to institutions under the Juvenile Justice System, in their programme of site visits. This has enabled the Commission to gauge an insight into the ground realities on the functioning of these homes in places like West Bengal, Orrisa, Madhya Pradesh etc.

The reports have highlighted the appalling status of some of the homes, **where children in need of care and protection are made to reside with those in conflict with law in a 'jail' like atmosphere** (which is not suited for either of the two categories of children), the children are left to the mercy of **inept personnel** (lacking qualification and training). Many a times children are not sent back to their home, even after release as there **aren't any escorts / special juvenile police units, to repatriate them** .

It has also been observed that, the children are being brought under the lens of serious offences of **TADA** and **POTA** which is extremely undesirable.

The National Human Rights Commission, is deeply concerned about the plight of these young children, and urges all the stakeholders to abide by the law, both in letter and spirit. This discourse on detention will enable us to identify the incongruities and also find a way out of it. The panellists who will facilitate this process include:-

1. Justice Shri A.K Sikri (Judge, High court OF Delhi)
2. Shri Gerry Pinto (Butterflies- NGO)
3. Prof. B.B Pande (National Law School of India University, Bangalore)
4. Prof. M.P Singh (Vice Chancellor, West Bengal, National University of Juridical Sciences, Kolkata)

NHRC organised a National Seminar on the Juvenile Justice System in India (3rd- 4th February 2007) the major recommendations emanating out of the same have been circulated to all the state governments for compliance.

However, not many states have reported back to the Commission.

NHRC has also formulated a questionnaire/reporting format, so as to get an insight on the status of implementation of the JJ Act, the same has been forwarded to all the stakeholders, for prompt action.

*Seminar on Security and Liberty: Linking Counter-Terrorism and Human Right**

Human Rights constitute an essential ingredient of all programmes and policies aimed at ensuring rule of law and good governance. Right to life with dignity as enshrined in Art. 21 of the Constitution is the quintessence of human rights. And this right to life came in to sharp focus with the end of World War II and advent of terrorism.

Terrorism has spawned some of the gravest violations of human rights. But it is also true that counter-terrorism strategies employed to counter it have also sometimes resulted in insufferable violations of human rights and serious erosion of the rule of law.

It is not disputed that when the security of the nation is in danger, public peace is threatened, and human existence is in peril, the security forces --- including the police and the para-military forces --- have to combat this threat with effective counter - terrorism strategies. Their achievements in this field are laudable. But there are also instances, when, in combat situations, lives and properties of innocent citizens were either damaged or totally extinguished. Nothing that acquires the colour of State terrorism can be condoned. The Supreme Court of India has come clearly against it and has laid down in *DK Basu V/s State of West Bengal* case .

"State terrorism is no answer to combat terrorism: State terrorism would only provide legitimacy to terrorism: that would be bad for the State, community and above all, the rule of law. The State must, therefore, ensure that the various agencies deployed by it for combating terrorism act within the bounds of law and not become law unto themselves". To put it differently, national security, undoubtedly is of paramount importance. Without protecting the safety and security of the nation, individual rights can not be protected. However, the worth of a nation is the worth of the individuals constituting it. Art. 21, which guarantees a life with dignity is sacrosanct and must inform all counter-terrorism strategies.

Having said that, it has become imperative for all wings of governance, including the armed forces, paramilitary forces, the police, the judiciary, the executive and the legislature, to have systems in place for not only issuing necessary guidelines, but also for monitoring their implementation.

**Workshop on Security and Liberty on 15th March, 2007 at Observer Research Foundation 20, Rouse Avenue, New Delhi*

The Supreme Court of India has already laid down guidelines in respect of Armed Forces (Special Powers) Act, 1958. They have, in a very candid manner, firmly issued a note of caution regarding the extent of use of military power. The court struck a balance between the security needs of the country and the contemporary norms of civilized behavior. It underlines a firm resolve to equip the State with effective means to deal with disturbed areas. At the same time it cautions against unbridled authority.

The National Human Rights Commission also has continued to remind the agencies of the State that they must act in conformity with the constitution, the law of the land and the treaty obligations of the country. From time to time, the Commission has drawn the attention of the Armed Forces to the need to observe guidelines of the Supreme Court and provisions laid down in the Indian Penal Code. It has taken up the manner in which it construes the provisions of Section 19 of the Protection of Human Rights Act relating to the procedure to be followed with respect to the Armed Forces when allegations of human right violation are brought against them. Very clearly, and in a very forceful manner, it has taken the position that in case of unnatural death, caused by the use of force, or disappearance from custody, unless it can be satisfactorily shown that the custodian is not responsible for the harm done in custody, or disappearance from custody, the initial presumption of accountability of the custodian will remain un rebutted and the Commission will proceed to act accordingly. Sharing the concerns expressed by the Commission in respect of number of incidents involving human rights violations the former Army Chief apprised the Chairperson of the various constructive measures taken by the Army leadership. It is matter of great satisfaction and gratification that Indian Army has in place --- and in fact, has institutionalized "Human Rights Cells" at Army Command, Corps and Forces Headquarters level in insurgency prone areas. In 1993, even before PHR Act was enacted, the Army Chief issued the "Ten Commandments" to all serving personnel --- "Respect for Human Rights" is one of them.

Monitoring of human rights and generating awareness about them have to go hand-in-hand for giving human rights a true meaning. The neglect of social, cultural and economic rights that give rise to conflicts and emerging forms of terrorism will have to be addressed by all institutions of governance and the civil society. Any worthwhile strategy to resolve conflicts and terrorism will have to ensure enjoyment of the full range of economic, social and cultural rights.

The monitoring mechanism as envisioned by National Human Rights Commission has to be both external as well as internal. The external aspect

of it is generally confined to National Human Rights Commission, the State Human Rights Commissions and the courts where complaints are received and disposed of after inquiry/investigations. This exercise also includes awarding interim relief/compensation to the victims of human rights violations and recommending action against their perpetrators whether from the police, paramilitary forces, armed forces or any other wing of governance.

The internal side of this monitoring is confined to setting up of human right cells in the police and all para-military forces. These human right cells or nodal points not only directly deal with complaints of human rights violations specific to their respective formations, they also serve as links between their organizations and the Human Rights Commissions.

The specific areas in which the monitoring is done regularly, to mention a few, pertain to custodial violence, encounter deaths and complaints against paramilitary forces/armed forces. As per the guidelines issued by the National Human Rights Commission soon after its inception in 1993, it was made mandatory for all concerned to report such deaths within 24 hours of their occurrence. The Commission has so far dealt with 14,750 cases of custodial deaths, and 1202 complaints of violations of human rights by defence personnel and 867 complaints against paramilitary forces. Complaints with regard to 1036 encounter deaths were received in the Commission out of which 661 have already been disposed of after due enquiries. It is our firm belief that this system of enquiries by the Commission and disposal of complaints resulting in relief and compensation to the victims of terrorist violence has restored the confidence of the people in this monitoring mechanism. More than that, it serves as an effective means to express our solidarity with the victims of terrorism and thus discharge our obligation to General Assembly resolution A/561164 adopted in 1999.

The case of excessive use of force especially in the disturbed sectors of J&K and North-East have always drawn the attention of the Commission. The very first incident is that of Bejbehra in J&K, which the Commission started monitoring soon after its creation in 1993. It related to the killing of 60 persons allegedly by security forces. The incident happened on 1st November, 1993. The recommendations of the Commission made after a detailed enquiry were accepted by the Govt. which assured the NHRC that the scope for harm to civilian life and property and any kind of excess in the operations being carried out by the security forces, even in the most difficult of the situations, is effectively curbed, and would continue to make its efforts towards the attainment of this objective.

The Commission, similarly, took cognizance of the disappearance of

Mohamad Tayab Ali, from the custody of security forces of 17 Assam Rifles in Manipur in 1999. In this cases the Commission dealt with the matter as per provision of Section 18(3) of the Protection of Human Rights Act, 1993 and directed the Government to pay interim relief of Rs. 3 lakhs to the next of kin of the deceased.

The Punjab Mass Cremation case which come under monitoring scanner of NHRC is yet another notable example the Supreme Court of India, by its order, had designated the Commission as a body 'Sui generis' to carry out the functions and to determine issues entrusted to it by the Hon'ble Court in the case. The matter was taken up as a court case in the Commission and after deliberations spread over a number of years the case is now in its final stages. The Commission has already awarded compensation of Rs. 2.70 crores to the next of kin of those deceased who could be identified. This exercise is still going on with a view to identifying the deceased in the remaining cases.

The Commission took a serious view of an article that appeared in the Times of India of 6th March, 2002 stating that officials had tampered with the DNA samples of the relatives of those killed in Patrival, in J&K, in order to prove the test results negative, and that for more than one year, the J&K government had been sitting over the damning report from the Hyderabad Forensic Lab. The Commission took up the matter with the State Government, Ministry of Defence and the Ministry of Home Affairs at the Centre to correctly identify the five deceased persons.

General Malik in his remarks during the inaugural session yesterday made a very pertinent point about the need for training in counter terrorism strategies to all security personnel deployed in combat situations. Governor Saxena emphasized the need for proper briefing of all personnel engaged in the task of fighting terrorism. Most humbly, I would like to go a step further and that is the need for generating awareness about human rights among the security personnel of all hues deployed in disturbed areas, in particular, and all over the country, in general. It is a matter of great satisfaction that the armed forces have very willingly and happily collaborated with the NHRC in this task.

The function of monitoring human rights has to necessarily include a system for investigating all allegations/complaints of human rights violations most truthfully and objectively. Unfortunately, it has been our experience that in large number of cases reports received from the state authority are incomplete or misleading making the Commission to have these enquiries done either by other independent agencies or by its own investigation wing. Section 14 of the Protection of Human Rights Act, 1993, provides for setting up

investigation wing both at the National level and the State level. The Commission, for the purpose of conducting any investigation can utilise the services of any officer or investigating agency of the Central Government or State Government. This provision in the Act enables the Commission to satisfy itself about the correctness of facts and arrive at conclusion about the violation of human rights of a complainant or otherwise. Such a provision, of course, does not bar the State from setting up Commissions of enquiry Judicial Commissions etc. which, in fact, is being done from time to time depending upon the gravity of the situations.

Chapter III and Section 12 of the Protection empowers the Commission to "review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation". Exercising their power under the provision of section 12, the NHRC has extended their reach and monitoring mechanism to custodial violence, encounter deaths, public health, trafficking in women and children, environmental crimes, bonded labour etc.

Under Section 12 (d), (f) and (g) of PHR Act, the NHRC took a strong position on the Prevention of Terrorism Bill 2001 and expressed an opinion that there was no need for the enactment of the Bill 2000 or a similar law. The Commission had also taken a view in 1995 that the then existing TADA legislation was draconian and should be removed from the statute book.

Further it is an essential function of the Commission to formulate its opinion on the desirability and the need of enacting such stringent laws as militate against the concept of human rights. Only recently --- that is, last year -- - the NHRC, while holding a National Conference on custodial violence, strongly urged the Government to ratify the Convention against Torture and thus discharge their obligations under international treaties.

The NHRC also made specific recommendation with regard to "Right to Information Bill". The Commission took the view that the title of the Bill should be changed from "The Freedom of Information Bill" to "The Right to Information Bill" in order to make the purposed Bill confirm to Articles 19 (1)a and 19 (2) of the Constitution. Which guarantees to every citizen the right to freedom of speech and expression as a fundamental right and, in particular, Section 8 of the Bill should be re-examined to ensure that the provisions are within the ambit of permissible restrictions under Art. 19 (2).

Here a question may well be asked: do the various monitoring mechanisms or the National Human Rights Commission have any care for the difficulties faced by the security forces. My answer to it is, emphatic Yes, they have. In

this task we should never rush to judgment lightly. For any judgment based on inadequate knowledge of the ground realities and the conditions in which the security forces function will not only be flawed but unfair. Similarly opinion expressed on the basis of incomplete profile of adversaries that the security forces face and the impression created by the media lead to erroneous impressions. NHRC is acutely aware of the casualties the forces have suffered in fighting the menace of terrorism. It respects the fortitude of those involved and it acted to the maximum of its capacity to ensure that security personnel and their kin are treated with gratitude and respect that is rightly theirs, not least when it comes to the sad subject of benefits. The Commission is only too conscious of the fact that monetary recompense can never really compensate of the loss of life that the security personnel suffer. Their lives are as important as lives of those whom they protect. But the most overriding concern is that the right to life is the supreme right and that all have a duty to respect and protect it.

अंतरराष्ट्रीय मंच पर आयोग की भाषाई अस्मिता *

राष्ट्रीय मानव अधिकार आयोग का सदस्य होने के नाते मुझे आज यह सौभाग्य प्राप्त हुआ है कि मैं इस संभ्रात समूह के समक्ष इस अकादमिक सत्र में **देश-विदेश में हिंदी शिक्षण समस्याएं एवं समाधान** पर केन्द्रित विषय पर अपना कुछ मन्तव्य दूँ और साथ में भारत में मानव अधिकारों का संरक्षण सुनिश्चित करने के लिए किए जा रहे प्रयासों की चर्चा करूँ और यहां पर उपस्थित विद्वानों के विचारों से अवगत हो सकूँ।

भारत वर्ष अपने इतिहास के एक विशिष्ट चरण (दौर) से गुज़र रहा है। राष्ट्रीय जीवन के सभी क्षेत्र—राजनीतिक, सामाजिक, आर्थिक और सांस्कृतिक क्रांतिकारी परिवर्तनों की प्रक्रिया में संलग्न हैं सदियों पुरानी रूढ़ियों और विसंगतियों को नष्ट कर नई अवधारणायें और आस्थाएँ प्रस्थापित हो रही हैं। नई दुनिया में मूल्य और तौर तरीके अपनाते हुए यह कोशिश भी जारी है कि हम अपनी सभ्यता और संस्कृति के उन मूल तत्वों को न खो दें जो शताब्दियों से विश्व में हमारी एक अनूठी-पहचान का आधार रहे हैं।

भाषा एक अद्भुत रचना है, जो मनुष्य द्वारा रची भी जाती है, और उसे रचती भी है। वह इतनी सबल रचना हो जाती है, कि रचनाकार उस पर हर काम के लिए निर्भर हो जाता है। उसकी भाषा से कोई अलग पहचान ही मुश्किल हो जाती है। उसका होना, उसकी अस्मिता, उसका अस्तित्व भाषा के होने पर निर्भर करता है। पर भाषा और अस्मिता का रिश्ता जितना सहज है, उतना ही जटिल भी है, क्योंकि भाषा एक नहीं है। हम अनेक भाषाओं का प्रयोग करते हैं। उनके बोलने वालों की आर्थिक, सामाजिक, राजनैतिक औकात भी अलग-अलग हुआ करती है। हमारा विश्व बहुभाषिक है। विभिन्न देशों में अनेकानेक भाषाएं बोली जाती हैं और उनका सम्बल पा कर देश और समाज अपने विकास या ह्रास की ओर अग्रसर होते हैं। भाषा और राष्ट्रीय विकास कितने जुड़े हैं यह अमेरिका, इंग्लैंड, फ्रांस, जर्मनी और जापान के साथ अधिकांशतः अलग-थलग रहे चीन को भी जोड़ लें तो स्पष्ट हो जायेगा। भाषा का जैसा बहुभाषी रूप भारत में है वह शायद ही कहीं अन्यत्र मिले।

इसलिए *विष्णुपुराण* में हमारे संपूर्ण देश का चित्र इस प्रकार उभर कर आया है—

उत्तरं यत् समुद्रस्य, हिमाद्रश्चैव दक्षिणम्

वर्षं तद् भारतं नाम, भारती यत्र संततिः।।

अर्थात् —समुद्र (यानी हिंद महासागर) के उत्तर में और हिमालय के दक्षिण में फैला जो देश है, वह भारत वर्ष के नाम से प्रसिद्ध है। इस विस्तीर्ण प्रदेश के निवासी भारतीय कहलाते हैं। भारतवासी पवित्र स्नान करते समय जब सात नदियों का स्मरण करते हैं, तब वे भारत की इसी

*राष्ट्रीय मानव अधिकार आयोग, भारत के माननीय सदस्य श्री पी. सी. शर्मा का न्यूयार्क, अमरीका में आयोजित आठवें विश्व हिंदी सम्मलेन के द्वितीय अकादमिक सत्र का अध्यक्षीय उद्बोधन 2007)

भावनात्मक एकता की अभिव्यक्ति करते हैं। वे कहते हैं:-

गंगे च यमुने चैव गोदावरि सरस्वति ।

नर्मदे सिंधु कावेरि जलेऽस्मिन् सन्निधिं कुरु ॥

अर्थात्- गंगा, यमुना, गोदावरी, सरस्वती, नर्मदा, सिंधु, कावेरी आदि नदियाँ जो इस प्रदेश में एक-दूसरे से काफी दूर बह रही हैं, उनका जल-इकट्ठा कर मैं स्नान के उपयोग में लाता हूँ।

भाषा उन्नति का मूल है, इसमें किसी तरह का संदेह नहीं होना चाहिए, कारण कि हमारे सारे प्रयास इसी के माध्यम से होते हैं, इसी से जुड़े होते हैं। हम भाषा में ही जीते हैं। भाषा हमारे व्यवहार में घुली मिली है।

सुभाषचंद्र बोस ने राष्ट्रीय एकता के संदर्भ में हिंदी के महत्व के बारे में कहा था-

“प्रांतीय ईर्ष्या-द्वेष दूर करने में जितनी सहायता हिंदी प्रसार से मिलेगी, उतनी दूसरी चीज से नहीं।”

इसी संदर्भ में **रवींद्र नाथ टैगोर** का यह कथन बहुत ही समीचीन है:-

“आधुनिक भारत की संस्कृति एक विकसित शतदल कमल के समान है, जिसका एक-एक दल एक-एक प्रांतीय भाषा और उसकी साहित्य-संस्कृति है। किसी एक को मिटा देने से उस कमल की शोभा ही नष्ट हो जाएगी। हम चाहते हैं कि भारत की सारी प्रांतीय बोलियाँ, जिनमें सुंदर साहित्य रची हुई है, अपने-अपने घर में (प्रांत में) रानी बन कर रहें और आधुनिक भाषाओं के हार की मध्य मणि हिंदी भारत-भारती होकर विराजती रहे।”

यहाँ तक कि, विदेशी विद्वानों ने भी, हिंदी की जरूरत को महसूस किया था। मैं आप का ध्यान **फ्रेंच विद्वान गार्सा द तासी** के शब्दों की तरफ खींचना चाहूँगा। उन्होंने 18 वीं शताब्दी के मध्य में यह बात कही थी-

“मेनें तहरीर के लिए यह जबान अख्तियार की है, जो हिंदुस्तान के कई सूबों की जबान है। क्योंकि इसे आम लोग बखूबी समझते हैं और बड़े तबके के लोग भी पसंद करते हैं।”

हिंदी के महत्व के संदर्भ में एक अन्य विदेशी विद्वान प्रो० **व्हिन्स्की** का यह उद्धरण बहुत ही प्रासंगिक है:-

“भारत की आत्मा को पहचानने के लिए हिंदी भाषा का ज्ञान अत्यंत आवश्यक है”।

हमारी अस्मिता प्रकट रूप में, भाषा में प्रतिबिम्बित होती है, और उसी से बनती बिगड़ती है। भाषाओं के साथ भेद-भाव बरतने के कारण कुछ समूह समाज के केन्द्र में और बहुतेरे सीमा पर चले जाते हैं। ऐसा होना, महज आंकड़ों का खेल न हो कर, जिन्दगी का आँकड़ा होता है। उसका जीवन की गुणवत्ता से, सीधा रिश्ता होता है। भारत के विभिन्न भाषा-भाषी समूहों की आर्थिक स्थिति, समाज में वर्चस्व, राजनैतिक हिस्सेदारी और उनके द्वारा प्रयुक्त भाषा का आँकड़ा, स्पष्टतः भाषा और अस्मिता के बीच, गहरे रिश्ते को दिखाता है। भाषा की शक्ति और उसके प्रयोक्ता समाज की शक्ति के बीच सीधा रिश्ता है। भाषा की स्वीकृति और समाज की

स्वीकृति साथ-साथ चलती है। यदि इसके अर्थ का विस्तार करें तो यह प्रकट होता है कि भाषायी असमानता आर्थिक असमानता की जननी है और पोषक भी। थोड़ा और गौर करें तो यह असमानता बहुतों को मनुष्यता के अधिकार से भी वंचित कर देती है तो कुछ को मालामाल। कष्ट की बात यह है कि ऐसी असमानता स्वदेश में ही है और अभी भी एक बहुत बड़ा हिस्सा भारतीय समाज में अपने मूल मानव अधिकारों से वंचित है।

आज के युग में यत्र-तत्र-सर्वत्र उदारवाद, बाजारवाद और वैश्वीकरण (ग्लोबलाइजेशन) का बोलबाला है। हमारा देश ही नहीं, हमारी भाषा हिंदी भी इससे अछूती नहीं रही है—इसे रहना भी नहीं चाहिए। आए दिन समाचार-पत्रों और टीवी के कार्यक्रमों में, विशेष रूप से इनके विज्ञापनों में, बच्चों के लिए प्रसारित किए जा रहे मनोरंजक और शैक्षिक कार्यों में इसके दर्शन हो रहे हैं। विश्वास कीजिए, वैश्विक वाणिज्यीकरण के फलस्वरूप हिंदी का महत्व किसी तरह से कम होने वाला नहीं है। इससे तो इसका विस्तार ही होगा। ‘कृण्वंतो विश्वं आर्यम्’ के उद्घोष के समान ही हिंदी विश्व स्तर पर फैलेगी, फैल रही है। अभी छह महीने पहले हुआ ‘विश्व हिंदी दिवस’ तथा हैदराबाद में संपन्न प्रवासी भारतीयों का सम्मेलन इसका मूर्त गवाह है। प्रवासी भारतीयों के संदर्भ में एक विद्वान का निम्न कथन कितना प्रासंगिक है जरा गौर करें:—

जिस तरह हिमालय भारत माता का अडिग प्रहरी है, उसी तरह गोस्वामी तुलसीदास का ‘रामचरितमानस’ देश-विदेशों में बसे प्रवासी भारतीयों की भाषा, धर्म, संस्कृति और सभ्यता की रक्षा करने वाला सजग प्रहरी है।

इन आयोजनों के माध्यम से वैश्विक हिंदी का स्वरूप और उसकी व्यावसायिक, वाणिज्यिक, वैज्ञानिक, सांस्कृतिक और साहित्यिक उपलब्धियाँ उजागर हुई हैं और हर वर्ष 10 जनवरी को अधिकाधिक उद्घटित होती रहेंगी। विश्व में हिंदी के प्रचार-प्रसार में विदेशी हिंदी विद्वानों, भारतवंशी प्रवासियों और अनिवासी भारतीयों का योगदान हमारे देश के हिंदी विद्वानों, साहित्यकारों, भाषा प्रेमियों आदि के योगदान की तुलना में किसी तरह से कम आँका नहीं जाना चाहिए। भारत को विकसित राष्ट्र बनाने और हिंदी को अंतरराष्ट्रीय स्तर पर पुष्पित पल्लवित करने में सबका समान योगदान सराहनीय है और रहेगा। वह दिन दूर नहीं जब संयुक्त राष्ट्र संघ के मंच पर हिंदी को मान्यता मिलेगी। हिंदी का विस्तार और अधिक विस्तृत होने की संभावनाएँ बढ़ जाएंगी। इस संबंध में स्व. दुष्यंत कुमार की एक कविता से आपको रूबरू कराना चाहता हूँ:—

हो गई है पीर पर्वत सी पिघलनी चाहिए।

इस हिमालय से कोई गंगा निकलनी चाहिए।

मानव अधिकार आयोग ने लोक कल्याण एवं मानव अधिकारों के संवर्धन और संरक्षण की अनेक योजनाओं और कार्यक्रमों को शुरू किया है। जहां एक ओर आयोग ने अपने कार्यक्रमों के माध्यम से संपूर्ण भारत में सामाजिक न्याय की स्थापना को पुष्ट किया है वहीं दूसरी ओर निकट भविष्य में हिंदी एवं अन्य भारतीय भाषाओं के माध्यम से मानव अधिकार सामग्री प्रस्तुत कर जन-जन तक इन अधिकारों की चेतना पहुंचाने का व्रत भी लिया है। इस संबंध में महात्मा गांधी का यह उद्धारण प्रासंगिक है

हिंदी एक जीवन्त भाषा है। इसमें बड़ी सुरम्यता और उदारता है। हिंदी के यही तो वे गुण हैं जो इसे दूसरी भाषाओं के शब्दों और रूपों को आत्मसात करने की असीम क्षमता प्रदान करते हैं। हिंदी हमें दक्षिण एशिया के देशों ही नहीं बल्कि पूरे एशिया और मॉरीशस, फिजी, सूरीनाम, ट्रिनिडाड व टोबेगो जैसे अन्य देशों के साथ भी जोड़ती है।

आयोग ने अनुभव किया कि चूंकि भारत की अधिसंख्य जनता मूलतः गैर-अंग्रेजीदां है और इस तरह केवल अंग्रेजी में ही मानव अधिकारों की जानकारी उपलब्ध रहना ना काफी होगा। कहना न होगा कि ज्ञान के बिना मनुष्य बहुत सारी कठिनाइयों का सामना करता है और अनेक ज़ायज़ लाभों और हकों से भी हाथ धो बैठता है। भाषा के आधार पर अवसरों की असमानता भारतीय समाज का कृष्णपक्ष है। नौकरियों, सामाजिक-आर्थिक भागीदारी और प्रगति का न्यौता अंग्रेजी परस्तों को अधिक और अंग्रेजी के प्रसाद से वंचित व्यक्तियों को कम मिलता है। हिन्दी या अन्य भारतीय भाषाओं को बोलने वाले अनपढ़ों पर तो दुहरी मार है। इन सब कठिनाइयों के मद्देनजर आयोग ने हिंदी में और क्रमशः अन्य भारतीय भाषाओं के माध्यम से मानव अधिकार विषयक साहित्य को उपलब्ध कराने की व्यापक चेष्टा शुरू की। आयोग ने हिंदी और भारतीय भाषाओं के माध्यम से देश की सांस्कृतिक एवं भावनात्मक एकता द्वारा देश को एक सूत्र में जोड़ने की पहल शुरू की है। इस दृष्टि से आयोग ने संयुक्त राष्ट्र द्वारा प्रकाशित मानव अधिकार से संबंधित अंतरराष्ट्रीय प्रपत्रों (International Instruments) के संकलनों का हिंदी रूपांतर प्रस्तुत किया है जिससे मानव अधिकार के क्षेत्र में हिंदी में अध्ययन करने वाले विद्यार्थियों, शोधार्थियों एवं गैर सरकारी संगठनों और वकालत के पेशे से जुड़े व्यक्तियों के साथ-साथ आम आदमी को भी इन दस्तावेजों के बारे में जरूरी जानकारी मिल सके। लगभग 1,600 पृष्ठों के तीन खंड वाले ये 'अंतरराष्ट्रीय प्रपत्र' मानव अधिकारों के ऐसे पक्षों का समावेश करते हैं जो आज के उभरते अन्तराष्ट्रीय मुद्दों और भूमंडलीकरण की ओर बढ़ते व्यापक समाज को समस्याओं को सम्बोधित करते हैं।

वैसे तो ये अंतरराष्ट्रीय प्रपत्र मूल रूप से अंग्रेजी में भी नहीं हैं ये तो फ्रांसीसी, स्पेनी, चीनी व रूसी भाषाओं से अंग्रेजी में अनूदित हैं। इन अंतरराष्ट्रीय प्रपत्रों का अंग्रेजी से हिंदी में अनुवाद कराने में आयोग ने वैश्विक धरातल पर एक नई पहल की है जिससे न केवल अंतरराष्ट्रीय क्षितिज में हिंदी की प्रतिष्ठा एवं उसके कद को ऊंचा करने में हमें मदद मिलेगी बल्कि उसके सामर्थ्य की पुष्टि द्वारा संयुक्त राष्ट्र में उसकी दावेदारी को भी बल मिलेगा।

आयोग ने विशेष रूप से एक और उल्लेखनीय प्रयास किया है। आयोग के पास देश के कोने-कोने से आवेदन पत्र, शिकायतें और अनुरोध आते हैं जो आम आदमी की भाषा में होते हैं न कि कानूनी भाषा में। उनकी शब्दावली तकनीकी कम, पर जीवन में प्रयुक्त शब्दों की होती है। भाषा यदि संचार का माध्यम है तो वह जड़ माध्यम न होकर गतिशील माध्यम है। उसमें समय के साथ-साथ बदलाव भी आता रहता है। यह सोचकर आयोग ने निश्चय किया कि आम आदमी की शब्दावली को भी देखा जाए और मानव-अधिकार से जुड़ी अभिव्यक्तियों को स्वीकार किया जाए। आयोग ने इस कार्य में रुचि ली और हमें प्रसन्नता है कि इस तरह की धरती से जुड़ी सामग्री का अध्ययन कर 14000 से कुछ अधिक शब्द चुने गये जो भोजपुरी, मगही, अंगिका, राजस्थानी, मालवी, हरियाणवी जैसी अंचलों की बोलियों में प्रयुक्त हैं। इन शब्दों के

अंग्रेजी पर्याय सुनिश्चित किए गए और 'अनुप्रयुक्त मानव अधिकार शब्दावली' शीर्षक से उसका प्रकाशन किया गया।

आयोग हिंदी में "मानवाधिकार : नई दिशाएं" नाम से एक वार्षिक पत्रिका भी कई वर्षों से निकाल रहा है। इसमें प्रकाशित सामग्री न केवल शोधपरक, सूचनाप्रद एवं महत्वपूर्ण है अपितु इसे स्तरीय बनाने में समाजशास्त्रियों, प्रशासन एवं पुलिस से जुड़े हुए वरिष्ठ अधिकारियों, मनोवैज्ञानिकों तथा मानव अधिकार से जुड़े कार्यकर्ताओं का भी निरंतर सहयोग मिल रहा है। इस पत्रिका के द्वारा आयोग न केवल भारतीय पारम्परिक समाज में मानवाधिकारों की अवधारणा को सामने लाने का प्रयास कर रहा है; अपितु आज के संदर्भ में मानव अधिकारों की दृष्टि से महत्वपूर्ण एवं ज्वलंत प्रश्नों पर भी विचार किया जा रहा है। कुल मिला कर यह कहा जा सकता है कि मानव अधिकार के क्षेत्र में हिंदी की उपस्थिति गौरतलब है।

आज जहां सभी देश एक-दूसरे से जुड़ रहे हैं और व्यापार, सामाजिक, शैक्षिक तथा सांस्कृतिक क्षेत्रों में सहयोग के अवसर बढ़ रहे हैं वहीं देशों के बीच आपसी रिश्तों में कई पेचीदगियां भी पैदा हो रही हैं। अभी ताजा घटना है:— हैदराबाद वासी सूर्यनारायण की अफगानिस्तान में हत्या जो स्पष्टतः मानव अधिकार के हनन के दायरे में आती है। तात्पर्य यह कि मानव अधिकारों की अंतरराष्ट्रीय परिधि स्थानीय और व्यापक दोनों ही दृष्टियों से हमें समेटती है।

यह सच है कि वैश्वीकरण के इस मौजूदा दौर में अमरीका और ब्रिटेन का अंग्रेजी अश्वमेध-प्रभाव बहुत तेजी से दुनिया को अपने नेटवर्क में समेट रहा है, पर हमको इस बदलती दुनिया में अपने पैरों पर खड़े होने के लिये नियमों-कानूनों को ठीक से जानना आवश्यक है। अंतरराष्ट्रीय स्तर पर संयुक्त राष्ट्र संघ में अंग्रेजी के अलावा जिन भाषाओं, अर्थात् स्पेनी, चीनी, रूसी, फ्रांसीसी और अरबी को मान्यता प्राप्त है उसमें आज भी हिंदी भाषा शामिल नहीं है। ऐसा तब है जब आज हिंदी दुनिया की पहली तीन सबसे बड़ी जनसंख्या द्वारा बोली जाने वाली भाषाओं में से एक है। स्पष्ट ही यह राजनैतिक वर्चस्व का संकेत है। तथ्य यह भी है कि बोलने वालों की दृष्टि से चीनी भाषा के बाद हिंदी का विश्व में दूसरा स्थान है। कुछ शोधार्थियों तो इसे पहला स्थान भी दिया है। दूसरा तथ्य यह है कि भारतीय संदर्भ में अंग्रेजी की सम्यक् जानकारी रखने वालों का प्रतिशत ज्यादा नहीं है। ऐसी परिस्थिति में हमारा यह कर्तव्य बनता है कि हम मानव अधिकारों की बातें यहां की जनता की भाषा में, उनकी मातृभाषा में जन-जन तक पहुंचाएं। अपनी मातृभाषा में हृदय बोलता है और उसमें काया और आत्मा दोनों का निवास रहता है।

संयुक्त राष्ट्र संघ का सदस्य होने के नाते भारत की जो ज़िम्मेदारियाँ बनती हैं उनका अनुपालन ही राष्ट्रीय मानव अधिकार आयोग की स्थापना के मूल बिन्दु हैं। भारतीय लोकतंत्र की सक्रिय संस्थाओं में से एक के रूप में इसने अपनी पहचान स्थापना के समय से ही बनाये रखी है और इसके सतर्क हस्तक्षेप के अनेक उदाहरण समकालीन इतिहास में मौजूद हैं। इस नाते इसे एक ऐसे सजग प्रहरी की भूमिका में देखा जाता है जिसकी उपेक्षा भारतीय व्यवस्था का कोई हिस्सा नहीं कर सकता।

किन्तु सजगता और सतर्कता केवल उन संस्थाओं के ही आवश्यक गुण नहीं हैं जिन्हें

लोकतांत्रिक कार्यकलाप की निगरानी करनी पड़ती है। यह भी उतना ही जरूरी है कि भारत के साधारण जन समूह की भागीदारी सम्पूर्ण व्यवस्था में केवल मतदान के अधिकार का प्रयोग करने तक ही सीमित न रहे अपितु उस व्यवस्था के सभी अंगों से तथा उनकी परिचालन-शैली से वह परिचित हो। इसके लिए कारगर उपाय यही है कि भारतीय भाषाओं में लोकतांत्रिक मान्यताओं को प्रतिष्ठित करने वाला साहित्य सुगमता से उपलब्ध हो ताकि लोग जान सकें कि वे जिन अनुशासनों के अंगीभूत हो कर जीवन जी रहे हैं उनका आधार क्या है?

यह सच है कि आज अंग्रेजी न केवल व्यापार और विज्ञान की एक प्रमुख भाषा है अपितु वर्तमान राजनैतिक-सामाजिक परिदृश्य के सभी क्षेत्रों में उसका अधिकार है। प्रशासन और अन्तरराष्ट्रीय सम्बन्धों के सभी विमर्श मुख्यतः अंग्रेजी भाषा में ही होते हैं। विधि-व्यवस्था, अधिकार और कर्तव्य, मानव और प्रकृति के सम्बन्ध, मुख्यतः अंग्रेजी में सोचे और गढ़े जाते हैं। भारत भी इसका अपवाद नहीं है। चूँकि अंग्रेजी राज भारत में एक लम्बे अरसे तक रहा जिसके दौरान शिक्षा-व्यवस्था में प्रायः सर्वत्र अंग्रेजी की ही प्रधानता रही इसलिए भारतीय चिन्तन प्रणाली में कुछ मूलभूत परिवर्तन हुए जिनका अभिलक्षण यह है कि सारा कामकाज और विचार-विमर्श अंग्रेजी के माध्यम से होता है किन्तु जब इन संवादों के निष्कर्ष भारतीय समाज में प्रसारित करने होते हैं तो यही अंग्रेजी भाषा बाधा बन जाती है क्योंकि राजकाज की भाषा भले ही अंग्रेजी हो, व्यापक भारतीय समाज के लिए व्यवहार की भाषा अंग्रेजी नहीं है। इसलिए भारतीय समाज के बारे में भारतीय समाज से बातचीत करने के लिए भारतीय भाषाओं का कोई विकल्प नहीं है।

किसी भी भाषा के साहित्य का परस्पर आदान-प्रदान करने में अनुवाद की विशेष भूमिका रहती है। इसके द्वारा जहां हम विश्व के सम्पूर्ण साहित्य से परिचित होते हैं वहीं दूसरी ओर उसकी सभ्यता, संस्कृति, आचार एवं व्यवहार से भी अपने को जोड़ने में भी सहजता का अनुभव करते हैं। इतिहास इस बात का गवाह है कि अनुवाद के माध्यम से ही हमारे देश का संपूर्ण वैदिक, पौराणिक, औपनिषदिक एवं अन्य धर्मों के उत्कृष्ट ग्रंथों के साहित्य को विश्व के कोने-कोने तक पहुंचाया जा सका। उसी प्रकार हम भी विश्व की अनेक भाषाओं के उत्कृष्ट साहित्य से न केवल परिचित हुए अपितु वहां की सामाजिक, सांस्कृतिक एवं भौगोलिक स्थापनाओं से भी हमारा रिश्ता मजबूत हुआ। आशा करते हैं कि अनुवाद के द्वारा एक बार फिर हम सम्पूर्ण विश्व में सामासिक संस्कृति (Composite culture) को बढ़ावा देने में सफल हो सकेंगे। हिन्दी सिनेमा की लोकप्रियता से भी देश व विदेश में सरल और सरस हिन्दी का प्रसार हो रहा है। अतः हिन्दी के प्रचार-प्रसार के लिए हिन्दी के अध्यापकों और विद्वानों को स्वयं को हिन्दी सिनेमा के सशक्त माध्यम से जोड़ना होगा।

आज विज्ञान और प्रौद्योगिकी का युग है। इसलिए जन साधारण की भाषा को सामान्य भावों और स्थापित परम्परा की कल्पनाओं के अलावा इस नए ज्ञान के प्रसार का माध्यम भी बनाना होगा। इसके लिए हिन्दी को विज्ञान से जुड़े नए विचारों और वैज्ञानिक शब्दों को ग्रहण करना होगा। इससे जहां एक ओर हम भाषायी मानकीकरण की ओर उन्मुख होंगे वहीं दूसरी ओर शब्दों के प्रयोग में एकरूपता (uniformity) के भी दर्शन होंगे। यहां यह भी उल्लेखनीय है कि आज के संदर्भ में भाषा को मानकीकृत रूप (Standard form) प्रदान करने में मीडिया ने अहम भूमिका निभाई है। यदि हिन्दी को विश्व की एक प्रमुख भाषा बनाना है तो इसे आधुनिक

सूचना प्रौद्योगिकी के साथ-साथ मीडिया से भी दोस्तांना संबंध बनाना होगा। लेकिन हिंदी से लगाव का अर्थ यह नहीं कि दूसरी भाषा का विरोध किया जाए चाहे वह विदेशी भाषा ही क्यों न हो। हमने जो विदेशी भाषा सीखी है, उसे भुलाना नहीं चाहिए बल्कि उस भाषा के अपने ज्ञान को और बढ़ाना चाहिए। विश्व व्यापीकरण के इस युग में विदेशी भाषा का ज्ञान बहुत ही उपयोगी सिद्ध होगा।

ज्ञात इतिहास की प्रथम रचना ऋग्वेद से एक उद्धरण मैं आप सभी विद्वानों के बीच बांटना चाहता हूँ, जिसमें कहा गया है:—

ऋग्वेद में भी मानव समानता, प्रतिष्ठा, भाईचारा तथा सम्पन्नता प्राप्त करने के लिए समवेत प्रयास की आवश्यकता को प्रबुद्ध समाज का जीवन मूल्य बनाया गया है। यहाँ कोई श्रेष्ठ अथवा निम्न नहीं है, सभी भाई-भाई हैं और वे सभी 'बहुजन हिताय और बहुजन सुखाय' के लिए मिलकर कार्य करें।

यह आशा की जानी चाहिए कि मानव अधिकारों के क्षेत्र में हिंदी की यह भूमिका दिन पर दिन और प्रभावी होगी तथा भारतीय भाषाओं और भारतीय परिवेश में किया गया चिन्तन वैश्विक धरातल पर मील का पत्थर साबित होगा। साथ ही इस कोशिश से हम सम्पूर्ण विश्व को अगली पीढ़ियों के लिए 'भाषायी वातावरण' के अनुकूल बनाने में मददगार साबित हो सकते हैं। सभी की अपनी सीमाएँ तथा क्षमताएँ होती हैं और वह उसी के अनुरूप अपने को अभिव्यक्त करने में सक्षम हो पाता है। मैंने भी उसी परम्परा का पालन करते हुए कुछ विचार आपके समक्ष रखने का प्रयास किया है। इसी संदर्भ में मुझे '(स्व.) शिवमंगल सिंह सुमन' की एक कविता का स्मरण आ रहा है जिसको उद्धृत (quote) कर मैं आपसे विदा ले रहा हूँ:—

कवि की अपनी सीमाएं हैं, कहता जितना कह पाता है

कितना भी कह डाले लेकिन, अनकहा अधिक रह जाता है।

मानव अधिकारों के संरक्षण एवं संवर्धन में ग्राम पंचायतों की भूमिका

मैं प्राकृतिक सम्पदाओं से भरपूर हिमाचल की धरती पर राष्ट्रीय मानव अधिकार आयोग की ओर से आयोजित ग्राम प्रधानों के लिए मानव अधिकार जागरूकता कार्यक्रम में आप सभी का अभिनन्दन करता हूँ। हिमाचल प्रदेश का एक समृद्ध एवं रंग-बिरंगा इतिहास रहा है। महाभारत के अनुसार आज जो हिमाचल प्रदेश है वह पहले कई छोटे-छोटे गणतंत्रों से मिलकर बना था, जिसे जनपद के नाम से जाना जाता था।

संविधान के उपबंधों के अंतर्गत किसी राज्य का विधान मंडल, आर्थिक विकास और सामाजिक न्याय के लिए योजनाएँ बनाने हेतु पंचायतों को अधिकार दिए गए हैं जिसका विवरण निम्न प्रकार है:-

- गरीबी उपशमन कार्यक्रम
- शिक्षा, जिसके अन्तर्गत प्राथमिक और माध्यमिक विद्यालय भी हैं,
- परिवार कल्याण
- महिला और बाल विकास,
- लोक वितरण प्रणाली,
- समाज कल्याण (विकलांग और मानसिक रूप से अविकसित),
- कमजोर वर्गों का (विशेष रूप से अनुसूचित जातियों तथा जन-जातियों का) कल्याण सत्ता के विकेन्द्रीकरण के लक्ष्य को हासिल करने में हिमाचल में स्थानीय शासन की उपलब्धियाँ दूसरे राज्यों के लिए उदाहरण हैं।

राष्ट्रीय मानव अधिकार आयोग ने स्थानीय शासन अर्थात् पंचायतों द्वारा मानव अधिकारों के संवर्द्धन में सहायता एवं सहयोग करने हेतु इस राज्य को सही चुना है। जब तक मानव अधिकारों के संरक्षण के कार्यक्रम को स्थानीय स्तर तक, विशेष रूप से ग्रामीण क्षेत्रों में रहने वाले गरीबों एवं दलितों की रक्षा तक नहीं ले जाया जाता, तब तक यह कार्य अधूरा रहेगा। अतः राष्ट्रीय मानव अधिकार आयोग को हर्ष है। कि आयोग हिमाचल राज्य में इस जागरूकता कार्यक्रम का अयोजन कर रहा है।

राष्ट्रीय मानव अधिकार आयोग विधि द्वारा स्थापित एक राष्ट्रीय संस्था है जो मानव अधिकारों की भारतीय समाज में स्थापना और रक्षा के प्रयास में कटिबद्ध है। आपको ज्ञात होगा कि मानव अधिकार जीवन की प्रतिष्ठा और गुणवत्ता की ओर संकेत करते हैं। आप सब को यह विदित ही होगा कि मानव अधिकार न केवल मनुष्य की गरिमा को उजागर करते हैं अपितु वे उसकी रक्षा करने में भी सहायक होते हैं मनुष्य को मानव अधिकार जन्म से ही प्राप्त होते हैं लेकिन मेरा ऐसा मानना है जब तक समाज में भेद-भाव, असमानता और अन्य पिछड़े वर्गों के प्रति

उदासीनता का भाव रहेगा तब तक हम सही अर्थों में सभी को मानव अधिकारों से नहीं जोड़ सकते। मेरी दृष्टि में इन सभी असमानताओं से निजात पाने का एक मात्र उपाय है कि हम मानव अधिकारों के बारे में आम जन को न केवल शिक्षित करे अपितु उसके प्रति जागरूकता भी फैलाए। इस अभियान को हम पंचायतों की मदद से और अधिक आगे तक ले जाने में सफल हो सकें।

जैसा कि आप सब को विदित है कि आज भी मानव अधिकारों का सबसे अधिक उल्लंघन गांवों में होता है क्योंकि वहां के लोगों को अपने अधिकारों के प्रति जानकारी नहीं होती है। आयोग का यह कार्यक्रम उसी अभियान का हिस्सा है जिसमें हम समय-समय पर मानव अधिकारों के प्रति आम जन मानस को जागरूक करने के लिए कार्यक्रम करते रहते हैं। हम सब को मिलकर यह सोचना/विचारना होगा कि देश के सूदूर गांवों में रहने वाले लोगों को उनका हक मिले और वे अपने अधिकारों के प्रति जागरूक भी रहे। साथ ही हमें उनके शिक्षा, स्वास्थ्य, भोजन, रहन-सहन तथा सम्मान सहित मर्यादित जीवन जीने के लिए समाज की सोच में बदलाव लाने के लिए कसर कसनी होगी तभी हम सामाजिक न्याय के प्रति अपनी जिम्मेदारी एवं जवाब देही के साथ न्याय कर सकेंगे। आज हमारे समक्ष जितने भी ग्राम प्रधान सूदूर क्षेत्रों से यहां उपस्थित हैं उनसे हमारा विशेष आग्रह है कि वे आज यहां पर यह शपथ लेकर जाए कि वे सभी को उसके अधिकारों को दिलाने में भरपूर मदद करने के साथ-साथ मानव अधिकारों से संबंधित शिकायतों को बेखौफ होकर आयोग के पास सीधे अथवा मीडिया के माध्यम से पहुँचाने का प्रयास करेंगे।

अंग्रेजी राज की समाप्ति के बाद के छह दशकों में भारत राष्ट्र ने आत्मनिर्भरता की दिशा में कई मंजिलें पार की हैं और अब इसकी छवि एक उभरती आर्थिक शक्ति के रूप में पूरे विश्व में प्रकट हो रही है। हम तकनीक और कुशल मानव संसाधन की दृष्टि से एक प्रमुख राष्ट्र की पहचान बनाने में कामयाब हो सके हैं। परन्तु यह भी एक सच्चाई है कि आर्थिक विकास और प्रगति का लाभ पूरे समाज को नहीं मिल पाया है। ऐसी एक धारणा बन गई है कि जो अमीर थे वे और अधिक अमीर होते चले गए तथा जो गरीब थे वे और अधिक गरीब होते चले गये। महानगर और गांव एक दूसरे के विरोधी से लगने लगे हैं। गांव उजड़ते जा रहे हैं और शहरों में बेतहाशा भीड़ बढ़ती जा रही है। पर अभी भी अधिकांश भारत गांवों में बसता है।

भारतीय गांव एक समुदाय से बनता है जिसमें एक परिवार की भावना ज्यादा प्रबल होती है। भिन्न जाति और आर्थिक पृष्ठभूमि के होने पर भी लोगों में परस्पर निर्भरता होती है और चाहे अनचाहे उनको एक-दूसरे की मदद करनी ही पड़ती है। आपसी सहयोग के बिना उनका काम नहीं चल सकता। इस सामाजिक शक्ति की प्रवृत्ति का लाभ उठाते हुए ग्रामीण भाई-बहनों के स्वभाव के अनुसार पंचायती राज की व्यवस्था को स्वीकार किया गया।

पंचायतों की बुनियाद सामाजिक समानता है। जब हम सम्पूर्ण देश में इनके द्वारा किये गये कार्यों की ओर दृष्टिपात करते हैं तो हमें देख कर यह खुशी होती की समाज के विभिन्न वर्गों के लोग एक स्थान पर सामाजिक सद्भाव के साथ बैठ कर अपनी स्थानीय समस्याओं का समाधान पाने की कोशिश करते हैं। यहां तक की वे छोटे-मोटे झगड़ों को भी मिल बैठकर आपस में निपटा लेते हैं। यह इसलिए सम्भव होता है कि इसमें सभी की भागीदारी होती है।

गणतंत्र या रिपब्लिक के संचालन का यह एक अनूठा प्रयोग है जिसमें आम जनता की खास भागीदारी होती है। शक्ति और शासन-प्रक्रिया के विकेन्द्रीकरण के लिए पंचायती राज की व्यवस्था को स्थापित किया गया था। जब सत्ता किसी एक केन्द्र में स्थापित रहती है तो शासक और शासित इन दो श्रेणियों का निर्माण होता है। इसमें एक ऊंचा और दूसरा नीचा होता है। एक दाता होता है तो दूसरा याचक। पंचायती राज इस ढांचे को तोड़कर एक धरातल पर सबको लाकर खड़ा करता है। पंचायती राज की व्यवस्था सामाजिक साझेदारी से प्रशासन की एक विलक्षण प्रणाली के रूप में विकसित हो रही है।

पंचायती राज ग्रामीण क्षेत्रों में एक महत्वपूर्ण प्रयोग के रूप में साबित हो रहा है। गणतंत्रीय शासन के अचूक तंत्र के रूप में पंचायती राज ने गांवों का कायापलट शुरू किया है। चूंकि गांव के लोग अपनी जरूरतों और अपने आस-पास की समस्याओं और संभावनाओं को बखूबी जानते हैं, यह उनसे प्रत्याशित है कि वे उन समस्याओं को सुलझाने और कमियों को दूर करने के लिए वे सभी महत्वपूर्ण निर्णय ले सकेंगे जो प्रशासन के उच्च अधिकारी नहीं ले सकते, क्योंकि उनका उस परिवेश से बहुत थोड़ा और कृत्रिम सम्बन्ध ही बन पाता है। उनका रिश्ता कृत्रिम होता है और वे तकनीकी दृष्टि से ठीक होने पर भी व्यावहारिक रूप से अनुपयुक्त सिद्ध होते हैं। ऊपर से आरोपित होने के कारण ऐसे कार्यक्रमों को सामाजिक स्वीकृति नहीं मिल पाती है। एक तरह की फ्यूडल (सामंती) मानसिकता के कारण आम जनता का शासन के प्रति संदेहों से भरा दृष्टिकोण बना रहता है।

पंचायती राज की व्यवस्था सुशासन का लक्ष्य पाने के लिए जन-जन की भागीदारी का अवसर प्रदान करती है। जैसा कि आपको ज्ञात होगा इस प्रक्रिया में स्थानीय समूह और समुदाय अपनी आवश्यकताओं का आकलन खुद करते हैं। यह आकलन निरंतर चलता रहा है और खुद अपने लिए अपनी आवश्यकताओं की पूर्ति के लिए आवश्यक सुविधा जुटाता है। शासन से समर्थित शिक्षा, स्वास्थ्य, परिवहन इत्यादि हर क्षेत्र में पंचायती राज की संस्था स्थानीय समाज को एक प्रभावशाली विकल्प प्रदान करती है।

पंचायती राज की सबसे उल्लेखनीय विशेषता समाज को सर्वांगीण रूप से सशक्त बनाना है। जब मैं ऐसा कह रहा हूँ तो मेरे सामने समाज के दायरे में आने वाला पिछड़े से पिछड़ा तबका उपस्थित है। हाशिये पर जिन्दगी बिताने वाला शोषण और दमन का शिकार बना दलित वर्ग भी पंचायती राज में अपनी भागीदारी के लिए खास स्थान पाता है। उसकी वाणी मुखर होती है और उसका अस्तित्व प्रमाणित होता है। पंचायती राज की व्यवस्था में इन वर्गों तथा स्त्रियों की भागीदारी का विशेष रूप से प्रावधान किया गया है।

पंचायती राज को मैं मानव अधिकारों की स्थापना का एक शक्तिशाली प्रयास मानता हूँ। मानव अधिकारों की भाषा में जिस मानवीय गरिमा को प्रतिष्ठित करने का व्रत लिया गया है उसे कार्यरूप में लाने का यह एक विशेष प्रयास है। हमारी चुनौती यह है कि पंचायती राज को मानव अधिकारों के प्रति किस तरह संवेदनशील बनाया जाय। दोनों एक ही पथ के पथिक हैं। हमें इस प्रयास को निरंतर जारी रखना है तथा अपने राष्ट्र व संविधान के सपने को मूर्त रूप प्रदान करना है। साथ ही हमे मानव अधिकारों के प्रति जागरूकता लाकर यह संदेश देना होगा कि कोई भी इंसान किसी भी इंसान की गरिमा तथा उसकी मर्यादा को ठेस न पहुँचाएँ।

अंत में, मैं आयोग के आदर्श वाक्य को उद्धृत कर आपसे विदा लेता हूँ।

सर्वे भवन्तु सुखिनः, सर्वे सन्तु निरामयाः।

सर्वे भद्राणि पर्यन्तु, मा कचित दुःखभाक् भवेत्॥

अर्थात् :- सभी लोग सुखी रहें

सभी लोग स्वस्थ हों

सभी लोग एक-दूसरे का कल्याण सोचें

कभी भी किसी को कोई दुख न हो।

वरिष्ठ नागरिकों के मानवाधिकार : एक सामाजिक अनिवार्यता

मुझे खुशी है कि उत्तराखण्ड की राजधानी देहरादून में आज मैं आप सबके साथ हूँ। इस सम्मेलन को देहरादून में आयोजित करने का कारण यह है कि देहरादून हमेशा से ही सेवानिवृत्ति लोगों, विशेष रूप से सेना के अधिकारियों एवं प्रशासनिक सेवा के अधिकारियों की पसंदीदा जगह रही है तथा आज भी है। स्वास्थ्य एवं प्राकृतिक सौंदर्य के दृष्टिकोण से देहरादून एक उत्तम स्थान है जहाँ लोग एक-दूसरे के साथ मिलकर रहने में विश्वास करते हैं।

आज का सम्मेलन वृद्धजनों के मानवाधिकारों पर केन्द्रित है लेकिन मुझे 'वृद्ध जनों' को "श्रेष्ठजन" अथवा "वरिष्ठ नागरिकगण" कहना ज्यादा उचित लग रहा है। आज आप सब जो इस सभागार में उपस्थित हैं आप सभी का अभिनन्दन करते हुए मुझे अति प्रसन्नता हो रही है।

आयोग सम्मानीय वरिष्ठ नागरिकों के अधिकारों एवं संवेदनाओं की प्रतिष्ठा को स्थापित करने के लिए अपनी स्थापना काल से ही निरंतर न केवल प्रतिबद्ध है अपितु उसमें बहुत ही मनोयोग से जुड़ा हुआ है। यही कारण कि 'अनुग्रह' नामक गैर-सरकारी संगठन तथा आयोग के संयुक्त तत्वावधान में इस महत्वपूर्ण सम्मेलन का आयोजन किया गया जिसे ओ.एन.जी.सी. का भी सक्रिय समर्थन प्राप्त है।

हम सभी को ऐसे अवसर पर इस बात पर एकमत होना चाहिए कि हम केवल एक आयोजन के माध्यम से एक दूसरे का सम्मान न करें बल्कि 'सम्मान' आदान-प्रदान करने की एक संस्कृति को उजागर करें। वरिष्ठ नागरिकों का 'सम्मान' हमारे लिए कर्तव्य के रूप में ग्रहण करने की चीज है। हमारे लिए आज यह एक बड़ा संकल्प हो सकता है।

आधुनिक सभ्य समाज में आज की सबसे बड़ी त्रासदी यह है कि मनुष्य अपनी जड़ों से कोसों दूर होता चला जा रहा है और उसके आस-पास अकेलेपन का सन्नाटा निरंतर छा रहा है। पीढ़ियों में अंतर और अंतराल तो सदियों से रहे हैं पर पारिवारिक रिश्तों में बढ़ रही कड़वाहट निरंतर मनुष्य को भय और पीड़ा से भयभीत कर रही है हमारे बुजुर्ग हमसे दूर होते जा रहे हैं। उनके घटते सम्मान तथा भीतर की असुरक्षा की भावना आज हमारे सम्पूर्ण सभ्यता के लिए एक चुनौती बनकर खड़ी है।

भारतीय परंपरा और समाज में जहां एक जमाने में संबंधों की जड़ें बहुत गहरी हुआ करती थीं उनमें अब खोखलापन आ रहा है। घर-आंगन, बाड़े-चबुतरे को छोड़ ऐसे भी बहुत उदाहरण हैं जहां असहाय माता-पिता का भी बंटवारा कर दिया जाने लगा है। जिसकी एक कमाई पर कभी पूरा परिवार आश्रित हुआ करता था आज उसका परिवार उसी को जब भार समझे तब इससे बड़ी क्या उपेक्षा हो सकती है।

आज की पीढ़ी की मानसिकता भौतिकतावादी होती जा रही है। बुजुर्गों की देखभाल, उनकी सेवा मात्र रुपये के माध्यम से करना एक आम-धारणा बनती जा रही है। सच तो यह है कि पैसा ही नहीं अपनापन भी उनकी जरूरत है। अगर उम्र के इस पड़ाव पर सम्मान सहित उनके भीतर सुरक्षा का भाव और सुखद जीवन जीने की थोड़ी सी चाहत जगा दी जाए तो मानव समाज में उनकी निष्ठा को टूटने से बचाया जा सकता है।

वास्तव में सामाजिक, मानसिक, आर्थिक और संस्कार जन्य समस्याओं को और उलझाव को झेलने वाला वर्ग कोई है तो वह है जीवन की संध्या बेला से गुजरता हुआ हमारा बुजुर्ग वर्ग। जो इनको याद रखेगा वही अकेला होने से बच जाएगा और आज उन्हें अकेलेपन की असुरक्षा से, भावनात्मक समस्याओं से बचा लेगा। प्रसिद्ध कवि शेक्सपियर ने सच ही कहा है कि "क्षितिज के पार जाते ये बुजुर्ग..... अपनत्व को तरसती सूनी रिक्त आँखें लिए..... अकेले होते ये लोग.....समाज में उपेक्षा और तिरस्कार लिए एक दिन कहीं दूर अनजान दिशा की ओर चले जाएंगे पर छोड़ जाएंगे एक ज्वलन्त प्रश्न। क्या उन्हें अपनापन देकर अकेले होने से बचाया जा सकता था? एक और निरुत्तरित प्रश्न.... तब क्या करोगे जब कल तुम्हारा भी आएगा? यह कड़ी यूँ ही चलती रहेगी.....क्योंकि सूर्य के पीछे हमेशा धागा लगा रहता है — यही मान्यता है.....एक बार फिर सच दोहराऊँ.....इसी का नाम संसार है.....

दुनिया केवल युवा पीढ़ी की ताज़गी—स्फूर्ति पर ही नहीं टिकी हुई है अपितु वह बुजुर्गों की अनुभव संपदा की मूर्त गवाह भी है। मेरा मानना है कि वरिष्ठ नागरिकों को दान की नहीं अपितु मान की जरूरत है और बाद में श्राद्ध की नहीं अपितु श्रद्धा की जरूरत है, उन्हें किसी वस्तु की नहीं अपितु हमारी—आपकी जरूरत है।

उमर का बढ़ना एक निरंतर सिलसिला है जिसमें कई पड़ाव आते हैं इनमें एक पड़ाव है वृद्धावस्था यह जीवन का सत्य है। शारीरिक कमजोरी और दवाईयों का भारी भरकम बोझ साथ ही अपनों द्वारा मुंह मोड़ लेने के कारण बुढ़ापा अभिशाप बन जाता है। कई बार हम मीडिया के माध्यम से इस प्रकार की खबरें पढ़ते रहते हैं कि बुजुर्गों की देखभाल के लिए रखे गए सेवकों द्वारा उनकी हत्या कर दी जाती है। इस तरह की घटनाएँ न केवल भारत में बल्कि पूरे विश्व में आम हो गई हैं। जब हम इन घटनाओं पर गंभीरता के साथ गहन विचार करते हैं तो हमें यह अनुभव होता है कि हमारी सोच को क्या हो गया है? क्यों हम अपने नैतिकता के सारे मानदण्डों को भूल गए हैं? इन सभी बातों पर हम सभी को मिल-बैठकर विचार करना चाहिए और सरकार पर इन समस्याओं से निज़ात दिलाने के लिए पहल करने के लिए दबाव भी बनाना चाहिए।

‘दि इकोनोमिस्ट’ नामक जर्नल में प्रकाशित एक लेख के कुछ अंश को आपके साथ बांटना चाहता हूँ : वृद्धावस्था के इतने नकारात्मक पहलुओं पर विचार करने के बाद भी बुढ़ापे से डरना सही नहीं है क्योंकि जीवन सूर्य की रोशनी से जगमगाती ऊँची भूमि से मौत की घाटी की तरफ जाती हुई ढलान नहीं है बल्कि एक यू—टर्न है।

परिवर्तनशील परिवेश और शारीरिक अक्षमता के बीच समन्वय स्थापित करना वरिष्ठजनों के लिए एक चुनौतीपूर्ण कार्य है। कानून के समक्ष बराबरी के सिद्धांत के साथ बुजुर्गों के प्रति समाज व राज्य के व्यवहार में कुछ विशेष और सकारात्मक पहल की अपेक्षा की जाती है। कानून में जहां महिलाओं और बच्चों के प्रति विशेष व्यवहार का प्रावधान किया गया है वही प्रावधान बुजुर्गों के लिए भी होना चाहिए। कानून को लागू करने वाली एजेंसियों को यह निर्देश प्राप्त है कि रात्रि में महिलाओं और बच्चों को पुलिस स्टेशन पर अनावश्यक रूप से न रोका जाए और न ही बुलाया जाए। परन्तु बीमार और शारीरिक रूप से अक्षम बुजुर्गों के लिए ऐसा कोई प्रावधान उपबन्ध नहीं है, ऐसा क्यों? मेरी दृष्टि में ऐसा व्यवहार उनके लिए भी किया जाना उचित होगा। ऐसी व्यवस्था स्थापित करने से निश्चित रूप से बुजुर्गों के प्रति मानवीय संवेदना के साथ-साथ प्रतिष्ठा व आदर का भाव पैदा होगा। पारिवारिक विखंडन के साथ-साथ बुजुर्गों की आर्थिक व सामाजिक सुरक्षा में निरंतर गिरावट आई है। उन्हें खान-पान व रहन-सहन की समस्या के साथ-साथ पारिवारिक हिंसा व उपेक्षा का दंश भी झेलना पड़ रहा है। अपनी औलादों द्वारा उत्पीड़न की शिकायतें आज आम हो गई हैं। जब असहनीय स्थिति पैदा हो जाती है अथवा किसी मीडिया या गैर-सरकारी संगठनों की निगाह पड़ती है तब सभी सरकारी एजेंसियाँ उसके प्रति हमदर्दी दिखाते हुए आश्वासनों की झड़ी लगा देते हैं। एक समस्या प्रायः यह भी देखने को मिलती है कि बुजुर्ग व्यक्ति अपने विरुद्ध हो रहे उत्पीड़न के खिलाफ खड़ा नहीं हो पाता अथवा उसमें हिम्मत नहीं रह जाती। उसके अंदर की इच्छा शक्ति शिथिल पड़ जाती है अथवा वह स्वयं यह नहीं चाहता कि अपने लोगों के प्रति वह कानूनी लड़ाई लड़े। इन्हीं कारणों से समाज व सरकार की ओर से कुछ और अधिक ठोस कदम उठाए जाने की आवश्यकता है।

वरिष्ठजनों के मानव अधिकारों को मानवाधिकार के सार्वभौम घोषणा पत्र (Universal Declaration of Human Rights) तथा अंतरराष्ट्रीय अभिसमय (International Conventions) के साथ-साथ भारत के संविधान में भी निर्दिष्ट किया गया है। इस प्रकार बुजुर्गों को भी पर्याप्त भोजन, वस्त्र सहित अच्छे जीवन स्तर, पर्याप्त सामाजिक सुरक्षा, सहायता उम्र अथवा किसी अन्य स्थिति के आधार पर किए जाने भेदभाव से आजादी गरिमापूर्ण ढंग से जीने तथा अपने कल्याण से संबंधित निर्णयों में उनकी संपूर्ण तथा असरदार भागीदारी का अधिकार प्राप्त है। जीवन प्रत्याशा में वृद्धि तथा बुजुर्ग महिलाओं एवं पुरुषों की बढ़ती तादाद को देखते हुए उनके स्वास्थ्य संबंधी समस्याओं की ओर विशेष ध्यान देने की आवश्यकता है। स्वास्थ्य देखभाल प्रणाली तथा वृद्धावस्था में आर्थिक एवं सामाजिक सुरक्षा प्रणाली में सुधार लाने के लिए बुजुर्गों की देखभाल हेतु परिवारों की क्षमता में बढ़ोतरी करने के उद्देश्य से सामाजिक सहायता प्रणाली में सुधार करना आवश्यक है। इसी प्रकार, सरकार को बुजुर्गों की आत्म-निर्भरता में वृद्धि करने का प्रयास करना चाहिए ताकि समाज में उनकी भागीदारी आसान हो सके। आज वृद्धजन उपेक्षित हैं अर्थात् लगभग 10 करोड़ से ऊपर जनसंख्या उपेक्षित है। बुजुर्गों की बढ़ती हुई आबादी और बुजुर्गों की देख-रेख संबंधी समस्या हमारे लिए एक चुनौती है। इसका समाधान यदि हम आज नहीं कर पाए तो भविष्य में यह और भी अधिक कठिन हो जाएगा। इसी प्रश्न पर विचार करना इस सम्मेलन का मूल उद्देश्य है।

भारत सरकार द्वारा Maintenance and welfare of Parents and Senior Citizens Act 2007 बनाया गया है। मेरी दृष्टि में इस अधिनियम पर सही एवं कारगर तरीके से अमल नहीं हो पा रहा है जो एक गंभीर चिंता का विषय है। हमें समाज में इसके लिए एक जागरूकता अभियान चलाये जाने की आवश्यकता है। तभी हम वरिष्ठ नागरिकों को उनका वाजिब हक दिलाने में समर्थ हो सकेंगे। आज यहाँ पर उपस्थित सभी गणमान्य प्रतिनिधियों से मैं यह अपील करता हूँ कि वे इस सम्मेलन में इस समस्या से और अधिक प्रभावी ढंग से निपटने के लिए गहन विचार-विमर्श और चिंतन करे ताकि इसका कोई समाधान निकल सके और वह भविष्य के लिए रोड़-मैप का खाका तैयार कर सकें।

हम उस भारत की संतान हैं जहाँ परंपरागत मूल्यों में वृद्धजन को सम्मान देना और देखभाल करने पर हमेशा बल दिया जाता था, लेकिन अब बड़े दुःख के साथ कहना पड़ रहा है कि परंपरागत मूल्यों को हमने किनारे छोड़ दिया है। परिवार नामक संस्था टूट रही है। लोग अपने निजी जीवन में सिमट रहे हैं, स्वार्थी होते जा रहे हैं। जब हम छोटे थे तब अपने मां-बाप से अपेक्षा रखते थे। अब वे अपेक्षा रखते हैं तो हम कह देते हैं – ‘दिस इज़ योर ड्यूटी।’ आपका जो कर्तव्य था वह आपने किया। कृपया मुझे जीने दीजिए मेरी प्राइवेट लाइफ में हस्तक्षेप मत कीजिए।

मित्रों, यह मानवाधिकार की भाषा और संस्कृति नहीं है। मानवाधिकार ‘अधिकार’ से अधिक ‘कर्तव्यों’ पर हमें आकर्षित करते हैं। हम आज कहीं न कहीं कर्तव्य से विमुख होते जा रहे हैं, यह चिंताजनक है। निजता यह नहीं सिखाती कि हम सर्वे भवन्तु सुखिनः की जगह ‘स्वान्तः सुखाय’ को अपना लें।

इसका मूल कारण ‘स्वार्थ’ और ‘पूंजी’ के प्रति हमारा आकर्षण है। हम कहीं न कहीं उपभोगवादी संस्कृति के गुलाम हैं और भोगवादी प्रवृत्ति व्यक्ति को अपने तक सीमित रखती है। वृद्धों की उपेक्षा हमारी इसी निजी संस्कृति और उपभोगवादी ग्लैमर कल्चर की शिकार है।

वरिष्ठ नागरिकों को अपने परिवार से स्नेह, सहायता तथा सहारा मिलना निहायत जरूरी है जिसके न होने से ओल्ड एज होम जैसी अवधारणाओं का विकास न केवल भारत में अपितु सम्पूर्ण विश्व में दिन-दूनी रात-चौगुनी संख्या में निरंतर अपने पैर पसार रही हैं। मेरी दृष्टि में ओल्ड एज होम व्यक्ति को केवल भोजन आवास तथा कुछ हद तक स्वास्थ्य लाभ तो देते हैं किन्तु भावनात्मक पूर्ति नहीं के बराबर कर पाते हैं। लेकिन आज के भौतिकतावादी युग में इंसान को अपने लिये तो समय है किन्तु जिसने उसे पाल-पोस कर बड़ा किया है उसके लिए न तो उसके पास समय है और न ही उसके साथ भावनात्मक लगाव रखने की दृढ़ संकल्प की भावना। जहाँ तक मैं समझता हूँ ओल्ड एज होम तथा एन.जी.ओ. की देखभाल में वरिष्ठ नागरिक कहीं न कहीं अपने को unwanted citizen मानने लगते हैं तथा यह अनुभूति अपने आप में वरिष्ठ नागरिकों के लिए घोर निराशाजनक तथा हमारी वर्तमान सभ्यता के लिए अपमानजनक है।

अंगों के शिथिल होने, एलज़ाइमर, अवसाद इत्यादि जैसी शारीरिक समस्याओं से पीड़ित वरिष्ठजनों पर विश्लेषणात्मक सर्वेक्षण करना अनिवार्य है ताकि इन समस्याओं से निजात पाने में सहायता मिल सके। ग्रामीण क्षेत्रों में यह और भी अधिक अनिवार्य है जहाँ ऐसी समस्याओं

से निपटने के लिए कोई साधन नहीं है। गैर-सरकारी संगठनों तथा सिविल सोसायटी को इन क्षेत्रों की ओर विशेष ध्यान देना चाहिए। वृद्धावस्था जीवन का एक सामान्य घटनाक्रम है एवं प्राकृतिक संतुलन की अनिवार्यता भी है। ऋग्वेद में लिखा है कि "देखते हुए और दीर्घायु भोगते हुए वृद्धावस्था में वैसे ही प्रवेश करना चाहिए जैसे अपने घर में" इसका तात्पर्य है कि हमें जीवन की हर अवस्था में खुश रहना चाहिए।

मेरी दृष्टि में बुढ़ापा अभिशाप नहीं है अपितु अनुभवों की विशाल संपदा है जो न केवल एक परिवार के लिए अपितु संपूर्ण समाज के विकास के लिए न केवल सहायक हो सकता है बल्कि वह संजीवनी बूटी का भी काम कर सकता है। पंचतंत्र में लिखा है कि "सत्पुरुषों को शरीर में ही बुढ़ापा आता है हृदय में नहीं" पंचतंत्र का यह वाक्य समाज के बुजुर्गों को उस अकेलेपन से बचाने का एक 'वेद-वाक्य' कहा जा सकता है। आइये हम ऐसे संसार का निर्माण करें जिसमें बुजुर्ग लोग अपने आपको अकेला, उपेक्षित तथा असहाय महसूस न करें अपितु भावी पीढ़ी के सपनों को साकार करने में उनका मार्गदर्शन कर अपना महत्वपूर्ण योगदान दे सकें।

अपनी स्थापना काल के 17 वर्षों की यात्रा में राष्ट्रीय मानवाधिकार आयोग को वरिष्ठ नागरिकों के संबंध में कुल 12628 शिकायतें प्राप्त हुई हैं जिनमें आयोग के अधिकारों के अनुरूप नियमानुसार समाधान भी देने की कोशिश की गई है।

वरिष्ठ नागरिकों के हितों का संरक्षण आयोग की पहली प्राथमिकता हमेशा से रही है जिसे वह और अधिक प्रभावी ढंग से उसमें गति प्रदान करने की अनेक योजनाओं के बारे में गंभीरता से विचार-विमर्श कर रहे हैं। यह उत्तराखण्ड की भूमि अनुपम और पवित्र हैं। गंगा-जमुना के इस अद्भुत पवित्र स्थल पर हम सबको संकल्प लेना होगा कि हमें अपने श्रेष्ठजनों के हितों को ध्यान में रखकर उनको वे सभी हक देने हैं जिन्हें पाने से वे वंचित हो जाते हैं।

सुशासन तथा मानवअधिकार

आज देश के सामने जो ज्वलंत प्रश्न उपस्थित हैं उनमें अच्छा शासन या 'गुड गवर्नेन्स' सबसे महत्वपूर्ण है। देश की विशालता, उसकी सामाजिक और धार्मिक विविधता, उसकी परंपराएं और विश्व स्तर पर हो रही घटनाओं का दबाव हमारे सामने बहुमुखी चुनौतिया प्रस्तुत कर रहा है। प्रजातांत्रिक संविधान के तहत हमारी यह प्रतिबद्धता है कि भारत के प्रत्येक नागरिक को गुणवत्तापूर्ण जीवन या 'क्वालिटी लाइफ' जीने की व्यवस्था करें। समाज की अपेक्षाएं हैं कि आम आदमी को न केवल जरूरत की सारी चीजें ही मिलें बल्कि उसके विकास और समृद्धि की संभावना भी बनी रहे। यह दायित्व जनसंख्या विस्फोट के दबाव और संसाधनों की कमी के कारण एक बहुत बड़ी चुनौती बन गया है। इसके लिए सक्रिय और प्रभावी शासन तंत्र की जरूरत है।

दुर्भाग्य से शासन को संचालित करने वाले कायदे कानून अंग्रेजों के जमाने से चले आ रहे हैं। उनमें से अधिकांश हमारी जरूरतों के हिसाब से ठीक नहीं हैं। उनसे हमारी समस्याओं का ठीक से समाधान नहीं हो पाता है। उस दृष्टि से देश की वर्तमान न्यायिक व्यवस्था में बहुत से सुधार आवश्यक हैं। मैं यहां कुछ मुद्दों पर ध्यान आकृष्ट करना चाहूंगा। इस समय देश के न्यायालयों में बहुत बड़ी संख्या में मुकदमे लम्बित पड़े हैं। न्याय मिलने में बेवजह विलम्ब होने से न्याय का महत्व खत्म हो जाता है। जल्दी न्याय मिले इसके लिए न्यायाधीशों की नियुक्ति के साथ-साथ न्याय की प्रक्रिया में भी सुधार की आवश्यकता है।

सामाजिक-आर्थिक विषमता में वृद्धि के साथ देश में मुकदमों की संख्या में तेजी से वृद्धि हुई है। साथ ही धोखाधड़ी और घोटालों में भी बहुत ज्यादा बढ़ोत्तरी हुई है। इन मामलों का आयाम या मैगनीट्यूड कितना गुना बढ़ गया है सब लोगों को पता है। यह सब चौंकाने वाला है और इसके कारण व्यवस्था से आम आदमी का भरोसा उठता जा रहा है। आश्वस्त होने के स्थान पर वह ठगा सा महसूस करने लगा है।

न्याय की प्रक्रिया ज्यादा खर्चीली होती जा रही है। इसके कारण न्याय के लिए गुहार लगाना सबके बस की बात नहीं रह गयी है। इसका परिणाम यह होता है कि धनी और समर्थ लोग न्याय की व्यवस्था का लाभ उठाने में सफल होते हैं और गरीब आदमी की सुनवाई ही नहीं हो पाती है। न्यायिक सक्रियता या जुडीशियल ऐक्टिविज्म के रूप में जो पहल हो रही है उससे फर्क पड़ रहा है। जनहित याचिका या पी आई एल के मामलों में महत्वपूर्ण फैसले हुए हैं जिनका दूरगामी प्रभाव पड़ा है। पर यह सब नाकाफी है।

पिछले कुछ वर्षों में सिविल सोसायटी के संगठनों की सक्रियता और सरकार की रुचि के कारण सूचना का अधिकार और शिक्षा का अधिकार को लेकर कानून बने और उनका असर भी दिख रहा है। परन्तु सामाजिक जीवन के ऐसे बहुत सारे पहलू हैं जिनके बारे में विचार-विमर्श कर

कानून बनाने की और उसे अमली जामा पहनाने की जरूरत है। सच्चाई तो यह है कि अधिकांश कानून ठीक से लागू ही नहीं हो पाते। इसका कारण न्यायपालिका और कार्यपालिका के बीच तालमेल की कमी। कहना न होगा कि इन दोनों के बीच के रिश्ते राजनीति से गंभीर रूप से प्रभावित होते हैं। राजनीति अक्सर छोटे और निजी लाभों में उलझ कर रह जाती है। इसके फलस्वरूप कानूनों का दुरुपयोग होता है या उनकी अनदेखी की जाती है।

सुशासन का लक्ष्य है सभी लोगों का या पूरे समाज का कल्याण सुनिश्चित करना। सबका हित क्या है? इस प्रश्न पर विचार करते समय अक्सर हम छोटे-छोटे स्वार्थों के कारण भूल कर बैठते हैं। हम अपने सीमित स्वार्थ के कारण संकुचित दृष्टि अपनाने लगते और 'सबके हित' की गलत व्याख्या कर बैठते हैं। हम 'अपना' और 'पराया' देखने लगते हैं और अपने हित को ही सबका हित सिद्ध करने लगते हैं। सारी राजनैतिक लड़ाइयाँ इसी तरह की होती हैं। सभी राजनैतिक पार्टियाँ अपने आप को देश से जुड़े हर प्रश्न और समस्या पर उनका नजरिया फरक-फरक होता है। इसका परिणाम हमारे सामने है – बहुत सारे महत्वपूर्ण विषयों में हम आवश्यक कानून को सदन में पास नहीं करना पा रहे हैं। आज समस्याओं पर छोटे स्वार्थों से ऊपर उठ कर देशहित की दृष्टि से देखने की जरूरत है और अपने अंदर ईमानदारी से देखने की जरूरत है।

आप सबने अनुभव किया होगा कि न्यायपालिका का संबंध मात्र दीवानी और फौजदारी में मुकदमों का फैसला न रह कर पर्यावरण, संविधान, प्रशासन और शासन की नीतियों तक व्यापक होता जा रहा है। न्यायालय की ओर समाज के सभी वर्गों की आशा भरी आँखें लगी रहती हैं और ऐसे में कई बार न्यायालय अपनी परंपरागत भूमिका से अलग हट कर काम करते नजर आते हैं। इसकी आलोचना भी सुनने को मिलती है किन्तु ऐसे हालात ही तब पैदा होते हैं जब शासन की नीति या प्रक्रिया में कोई कमी होती है या वह निष्क्रिय होती है। दूसरे शब्दों में कहें तो जब हम सुशासन के लक्ष्य से दूर जाते हैं तो न्यायपालिका का दायित्व बढ़ जाता है। आज हम सबको यह सोचने की जरूरत है कि किस तरह न्यायपालिका, कार्यपालिका और विधायिका अपने दायित्वों का निर्वाह देशहित में अच्छी तरह कर सकें।

आज के बदले हुए माहौल में जन अधिकार, कर्तव्य और दायित्व के प्रश्नों पर हम विचार करते हैं तो सबको प्रभावित करने वाला प्रश्न यह उठता है कि किस सीमा तक मानव अधिकारों का सम्मान हो पाता है और उनकी रक्षा हो पाती है। आज के जमाने में यही सुशासन का पैमाना हो गया है। यह बताने की जरूरत नहीं है कि मानव अधिकार मनुष्य मात्र की न्यूनतम आवश्यकता है। इन आवश्यकताओं की पूर्ति शासन करने के लिए आधार भी है और लक्ष्य भी। मानव अधिकारों का क्षेत्र बड़ा व्यापक है और उसके सभी पक्षों पर कानूनी आधार या समर्थन नहीं हो पाया है। उनके प्रति संवेदनशीलता भी अभी अच्छी तरह विकसित नहीं हो पायी है। आम जनता और प्रशासनिक अधिकारी दोनों को ही इसके लिए सुशिक्षित करने की आवश्यकता है।

राष्ट्रीय मानव अधिकार आयोग देश द्वारा स्थापित एक स्वायत्त संस्था है जिसका उद्देश्य भारत में मानव अधिकारों की स्थापना, पालन, संवर्धन और निगरानी की एक सक्षम व्यवस्था प्रदान करना है। अपनी स्थापना के बाद से आयोग इस लक्ष्य की ओर सक्रियता से अग्रसर है।

आयोग न केवल मानव अधिकार के हनन की शिकायतों पर कारवाई करता है बल्कि स्वयं अपनी ओर से ऐसी घटनाओं को संज्ञान में लेता है और अपेक्षित कदम उठाता है। इसके अतिरिक्त अपने प्रकाशनों, गोष्ठियों और अन्य आयोजनों की सहायता से मानव अधिकारों के जागरण का अभियान भी चलाता है।

आज जिस संगोष्ठी का आयोजन हो रहा है वह इसी जागरण के आंदोलन का एक हिस्सा है। इस तरह की गोष्ठी का लक्ष्य संवाद की स्थापना और उसे बढ़ावा देना है। जैसा कि मैंने संक्षेप में अपनी बात कहते हुए पूर्व में यह रेखांकित किया था कि सुशासन में न्यायपालिका की भूमिका न केवल बदल रही है अपितु विस्तृत हो रही है और दोनों की आधारशिला एक है — मानव अधिकारों का सरोकार। मुझे हार्दिक प्रसन्नता है कि इस गंभीर प्रश्न पर विचार करने के लिए आप सब लोग यहां पर उपस्थित हैं। मैं आशा करता हूँ कि आप सबके विचार-विमर्श का सार्थक परिणाम होगा। मैं इस अवसर पर आप सबका आयोग की ओर से अपनी ओर से स्वागत करता हूँ। आयोग के अधिकारी वर्ग भी साधुवाद के पात्र हैं जिन्होंने लगन और परिश्रम से इस गोष्ठी का आयोजन किया है।

