

Amidst politicisation of UN organs

Where is the world today?

By S. V. Kirubaharan

The Morning Leader, 10 December 2008 - Even though the United Nations was born on June 26, 1945, it was officially established only after all five super powers — France, UK, USA, USSR and China ratified the UN Charter on October 24, 1945.

Soon after the UN was officially established one of its organs, the Economic and Social Council (ECOSOC) created its first human rights monitoring body, the Commission on Human Rights (CHR) on February 16, 1946.

This main policy-making body CHR, initiated human rights tasks – it made recommendations and drafted international human rights covenants and declarations, investigated allegations of human rights violations around the world and also passed resolutions against violating states. Since 2006, the CHR has been replaced with the UN Human Rights Council with 47 states as its members.

Universal Declaration of Human Rights (UDHR)

The CHR was given a mandate in its first session to draft a declaration on human rights.

The Universal Declaration of Human Rights was adopted on December 10, 1948 by the UN at the Palais de Chaillot in Paris. Since then this day has been celebrated all over the world as International Human Rights Day. Today is the 60th anniversary.

In the UDHR, there are 30 articles set forth – article one lays down the philosophical claim upon which the UDHR is based, article two emphasises that human beings are born free in equal dignity and are entitled to all rights and freedoms set out in the UDHR without any kind of discrimination such as on grounds of race, colour, sex, language, religion, social, political or other opinion.

The following 19 articles, articles three to 21 deal with civil and political rights to which all human beings are entitled. The next six articles, articles 22 to 27 deal with economic, social and cultural rights and the concluding articles, articles 28 and 29 recognise that everyone is entitled to social and international order in which human rights and fundamental freedoms can be fully realised, stressing the duties and responsibility which the individual owes in a democratic society.

The final article 30 – gives cautionary notice that nothing in the UDHR may be interpreted as implying that any group or person has any right to do anything aimed at destroying the rights and freedoms set forth in the UDHR.

Even though the UDHR is not legally binding on member states, it is considered as having the value of customary international law since the main principles of UDHR are highly respected by all states. Palestinian territories and the Holy-See have observer status in the UN and enjoy certain privileges as other member states.

While UDHR was in progress, the CHR was drafting two legally-binding covenants on human rights. The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These two covenants were eventually adopted by the General Assembly in December 1966. Almost 10 years later both Covenants came into effect. These Covenants incorporated the rights set out in the UDHR.

The ICCPR and ICESCR are legally binding on member states who are signatories. Some states have ratified these Covenants with reservations to certain articles. Now the task of the CHR is taken over by the Human Rights Council.

The UDHR is part of the International Bill of Human rights (IBHR). This consists of the UDHR, both Covenants the ICCPR, ICESCR and the two Optional Protocols of the ICCPR. The CHR also drafted other conventions and protocols.

Many international NGOs lobby for the implementation of conventions and protocols being sure that certain states will fund the promotion of their favoured conventions and protocols. Normally the conventions which apply a particularly high level of scrutiny to, and affect the revenue of states, get the least funding by these NGOs.

The Rome Statute of the International Criminal Court (ICC) and the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography are good examples.

UN monitoring mechanisms

The United Nations' monitoring mechanisms on human rights vary. The states which have signed and ratified the conventions are monitored through the Treaty Bodies, Working Groups, Special Rapporteurs and Country Rapporteurs. These procedures operate under the guidance of the present Human Rights Council which works closely with the Office of the High Commissioner of Human Rights (OHCHR). Not to be forgotten are also special representatives and independent experts under the UN Secretary General, monitoring thematic issues and country situations.

These mechanisms coordinate their functions with the OHCHR. The post of High Commissioner for Human Rights was established in December 1993 and functions under the Secretary General of the United Nations. OHCHR gives technical cooperation to some member states. The High Commissioner coordinates her task with the Economic and Social Council (ECOSOC) and the UN General Assembly.

Presently in addition to all the above monitoring mechanisms, the Human Rights Council has established a new mechanism which is known as Universal Periodic Review. This permits the Council to keep a track of every member state's record on human rights. The OHCHR and civil society have the right to feed information about the country under scrutiny.

In addition to this mechanism, since last August the Council has established a 'think tank' committee which is known as the 'Advisory Committee.' In fact this has replaced the earlier Sub-Commission on Promotion and Protection of Human Rights.

Politicisation of the HRC

There is an accusation that the HRC is politicised, is it true?

Governments other than monarchy, military and dictatorship are elected from political parties. Whether a government is formed by a president/prime minister or monarchy or a military leader, they appoint their favourable candidates as ambassadors, high commissioners and representatives to their respective embassies and consulates in foreign countries including the United Nations. These people are known to the world as diplomats. There are career diplomats as well as political appointees. Now-a-days even the career diplomats from developing countries are using their political influence to get promotions and appointments to better places.

These diplomats become the spokespeople for their governments' policies and carry out the orders given by their political leaders through the Ministry of Foreign Affairs and other ministries. When these people are involved in UN affairs, obviously the UN bodies also become politicised. This is not the case with Treaty bodies, Working Groups, Special Rapporteurs and Country Rapporteurs – all these consist of independent experts. Many of them prioritise their assigned task as over and above favouritism.

Now-a-days, the regional animosity among states; the club mentality among governments which have the worst record on human rights; the fact that many countries oppose UN scrutiny under the pretext of fighting terrorism – put the UN human rights mechanisms in a dilemma. We have numerous examples of this nature since September 2001.

In the HRC, the powerful states use their political influence and support to avoid the examination of human rights violations in their countries and also to protect the countries which have bilateral links with them. Some states even insist that they are exempt from UN scrutiny because what takes place in their countries is an "internal affair."

Right to self-determination and the UN

This is one of the hottest issues in the United Nations. Article one of both the ICCPR and ICESCR states that "all peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

Gradually this article lost weight because all five permanent members of the Security Council — the United States, United Kingdom, France, Russia and China have their own problem concerning this issue. In USA the people of Alaska, Hawaii and Puerto Rico are struggling for self-determination, in UK there was the Northern Ireland crisis, in France the people of Corsica and Bretagne are demanding their political rights, in Russia and China – people of Chechnya and Tibet are struggling for their self-determination.

Also countries like Algeria, India, Pakistan, Russia, Indonesia, Sri Lanka and a few other states are objecting to the right to self-determination of the people living within their domain but support the same in other countries. For this reason, last September many states have once again shown their interest in the subject of right to self-determination in the ninth session of the UN Human Rights Council.

With all these hurdles, the NGOs have been successful to a certain extent in their human rights advocacy, "naming and shaming" the states which are violating human rights. This is one of the reasons why the worst violating countries hate NGOs participating in international forums. Some states misuse the UN procedures and have their own NGOs who are known as GONGOs (Government NGOs) in UN circles.

These GONGOs not only advocate government policy, they also counter the accusations made by the genuine NGOs against the states. The representatives of GONGOs appear as members of organisations working on religion, education, research, etc. GONGOs are indirectly funded by the governments and they are to some extent members of the espionage too.

Countries like Russia and Georgia, India and Pakistan, Algeria and Morocco, Israel and Palestinian, Eritrea and Ethiopia, USA and Cuba and a few other states, have regular debates about their politics, border disputes and their support for right to self-determination claims of people, they are in favour of. This is the result of politicisation of the UN organs.

The writer is General Secretary, Tamil Centre for Human Rights, France

<http://www.themorningleader.lk/20081210/focus.html#Amidst>