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"Why no Human Rights Charter for Asia?"

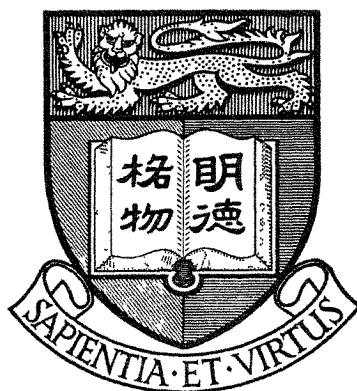
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Why no Human Rights Charter for Asia?

A consideration of the various historical, cultural and other factors which have led to the promulgation of regional human rights instruments for Europe, the Americas and Africa but not, as yet, for Asia, followed by some suggestions for such an instrument for Asia.

While the concept of Human Rights arguably extends back to the signing of Magna Carta in 1215, and certainly to the signing of the Peace of Westphalia in 1648 (which guaranteed the rights of religious minorities in the German States), inter-state instruments to assist in the securing and preserving of the human rights of the individual citizen are almost exclusively a product of the 20th Century.

The earliest examples followed closely upon the upheaval of the First World War and included the measures set up to protect the rights of labour by the International Labour Organisation (set up in 1919) and the International Slavery Convention of 1926.[1]* These instruments were restricted in scope to safeguarding the rights of workers and even under the League of Nations, during the inter-war years, no general Human Rights Instrument was enacted, either on a global or a regional basis.

It was only after World War II, that the United Nations promulgated the Universal Declaration of Human Rights{"UDHR"} in 1948, the first wide-ranging international declaration covering the whole field of human rights. It must be noted that it was merely a declaration, not a treaty, and as such does not carry enforceable legal obligations. This drawback led, in due course, to the promulgation of two important international covenants, The International Covenant on Economic, Social and Cultural Rights{"ICESCR"} and The International Covenant on Civil and Political Rights{"ICCPR"} both adopted on 16 December 1966 and which entered into force on 3 January 1976 and 23 March 1976 respectively.

{* Numbers in square brackets [1] refer to footnotes which are to be found in the appendix hereto}

Unlike the UDHR, these two instruments provided certain monitoring procedures through, respectively, the Economic and Social Council {"ECOSOC"} and the Human Rights Committee {"HRC"}. It would be a gross over-simplification to say that these two instruments represent, respectively, the Marxist and Western Capitalist interpretations of what is important about Human Rights, but it is fair to say that the former lays stress on economic and other rights that are more easily provided by the state in a planned economic environment, while the latter lays stress on individual political rights which the state should seek to protect. Both instruments, however, are truly international in the sense that they have attracted ratifiers from all of the United Nations Regions.

Before these two Covenants came into force, two important regional human rights regimes had come into being; The European Convention on Human Rights {"ECHR"} was opened for signature on 4 November 1950 and entered into force on 3 September 1953; meanwhile, across the Atlantic, The American Declaration of the Rights and Duties of Man was adopted at the ninth International Conference of the Organisation of American States {"OAS"} held at Bogota, Columbia between 30 March and 2 May 1948. This was followed by the American Convention on Human Rights {"ACHR"} opened for signature on 27 November 1969 which entered into force on 18 July 1978.

Finally, to complete the present picture of regional human rights instruments, there is the African Charter on Human and Peoples' Rights {"ACHPR"}. This was adopted at the 18th Assembly of the Heads of State and Government of the Organisation of African Unity {"OAU"}, meeting at Nairobi, Kenya on 27 June 1981 and which became effective on 21 October 1986, after which it was ratified by a majority of the 50 member states

of the OAU.[2]

One region of the United Nations which is conspicuously absent when it comes to regional human rights instruments is the Asia/Pacific Region. Why is it that this vast region which covers nearly half the land area of the world[3] and which is home to over half the world's people[4] has so far made scarcely any moves towards the promulgation of its own human rights instrument?

The reasons, I suggest, fall into two groups, which can be described, very generally, as cultural and historical. As will become apparent, this classification is not watertight and the cultural and historical reasons sometimes overlap.

Dealing firstly with the cultural reasons, I would suggest that the three regions which currently possess human rights instruments, unlike Asia and the Pacific, share within themselves, to some degree, a common cultural inheritance. This manifests itself in different ways and, as with the historical reasons to be explored later, there are exceptions, but I would still argue that this is a significant factor which has led to the regional groupings (Council of Europe, OAS, OAU) which spawned the corresponding regional human rights instruments.

Europe is perhaps the best example. Much of the history of Europe and the development of its civilisation since the collapse of the Roman Empire in the west in the 5th Century, has been linked to the the history of Christianity. From its beginnings in Palestine, the Christian religion spread west and north so that within a few centuries its strongest base was in Europe. In 313 it was accepted as the official religion of the Roman Empire by Constantine[5] and Rome has remained the home of the Papacy (apart from a brief interlude in the 14-15th Centuries) ever since[6]. During this time Christianity has seen two major upheavals,

the breach between its Roman and its Orthodox traditions, sealed by the mutual excommunications of the Pope and the Patriarch of Constantinople in 1054[7], and the Reformation of 16th Century when a large portion of western Christendom rejected Papal authority. Nevertheless, apart from small and relatively insignificant areas in the south east (formerly under Turkish Ottoman Rule) the indigenous populations of Europe have remained overwhelmingly (if nominally) Christian. At present, only in Albania, Turkey, Bulgaria and parts of Bosnia-Herzegovina are Christians outnumbered by followers of other religions[8].

Along with the religious dimension, a cohesion has endured in other spheres. Although many languages are spoken throughout Europe, most can be safely classified into one of three groups; there are the Latin-based languages of southern Europe and Romania, not mutually intelligible, but sufficiently close to ease the way to learning, information exchange and cultural intercourse; then there are the northern European languages based on old German, of which English is one. Finally, in eastern Europe the Slavic languages are spoken in many states. As with the Latin-based languages, these two groups contain languages which are not, for the most part mutually intelligible (the Scandinavian languages may be an exception), but have sufficient in common to facilitate learning and mutual contact.

These factors have combined together, I would suggest, to forge a cohesive European history and identity, aided by the comparatively small size of Europe as a continent (just over 4 Million square miles or less than 8% of the world total excluding Antarctica[9]) and comparatively good communications, which has contributed in no small measure to the current perception of European identity and unity.

The Americas represents a different but sometimes parallel case. Since

settlement from Europe and (through slavery) from Africa began over 400 years ago, the pattern has been one of subjugation, or in some instances total extinction, of the indigenous Amerindian culture at the hands of the incoming settlers from elsewhere. In North America, most notably the United States, this subjugation has been all but complete so that native American culture only impinges on the national consciousness in the form of movies recalling the days of frontier settlement and reservations in remote parts of the country where the indigenous peoples have become a sort of tourist attraction. The present number of speakers of native North American (including Alaskan Eskimo) dialects is put at a mere 430,000 or less than 0.2% of the total population of the USA[10]. By contrast, in Peru, Bolivia, Paraguay and Mexico the numbers who still use native languages is put in the millions and constitutes in excess of 10% of the population in each of those states[11].

These, however, are mere differences of detail. In both North and South America the pattern was of settlement by white (free) people from Europe and black (slave) people from Africa. The motivation for settlement was very largely to start a new life and to escape from poverty, religious intolerance and/or political oppression at home. Differences in the detailed pattern certainly existed between and within North and South America, particularly as to the emancipation of the black population, their fate after emancipation, relations with the indigenous peoples (not least intermarriage) and the pattern of land settlement and ownership. These matters are outside the scope of this study. The point I wish to make is that despite these differences, there is sufficient in common between and among the states of the Americas that the founding of the OAS seems a natural outcome. All states in the region basically share a common heritage of settlement by a European colonial power,

involving subjugation of the indigenous people and their culture, followed by an independence struggle. The legacy that remains is a quasi-European culture which uses languages from Europe (English or French in North America, Spanish or Portuguese in Latin America) as the means of daily communication for the majority of the citizens, with Christianity (Predominantly protestant in the north, Roman Catholic in the south) as the religion professed by a large majority[12]. As with Europe, therefore, a common cultural heritage.

Africa's case is more complex. On the face of it one has a continent that (at least so far as the sub-Saharan part was concerned) was little known to the outside world until quite recent times with a veritable patchwork of nations (often referred to as tribes) and languages. Even the casual observer, however, would I believe discern some common threads amongst these peoples. Commentators who claim some expertise in this field have attempted to characterise traditional African society as one in which the individual had no identity outside the community to which he or she belonged. Professor Issa G Shivji of the University of Dar-es-Salaam, Tanzania in Chapter 1 of his book The Concept of Human Rights in Africa summarises the views of a number of writers listed in note 9 in these words:

"Whereas Western conceptions are based on the autonomous individual, African conceptions do not know such individualism. In traditional Africa, the human being found his(sic!) worth within the community to which he related in terms of obligations and duties."

Another commentator, Fasil Nahum, has put the same idea across although less strongly stated. In the same chapter of his book, Shivji interprets his view in this way:

"..the individual is not dissected into an economic man divorced from his other characteristics but is taken as a whole and is taken within his community. In other words, individual rights are not emphasised, or rather over-emphasised, at the expense of collective rights."

This mention of collective rights and duties is interesting and puts into context the fact that the ACHPR is the only regional instrument to purport to deal at all with the rights of peoples rather than persons (Articles 19-24) and the only one to deal substantially with duties as well as rights (Articles 27-29), although it is true that the ACHR gives a brief mention to responsibilities at Article 32.

Here, I think, one begins to glimpse the sort of provisions that might commend themselves to the duty-orientated societies of Asia. For the moment, however, I wish to continue my consideration as to why there is still no human rights instrument for Asia. The point I had reached and was trying to demonstrate was that in Africa, as in Europe and the two Americas, there is a certain cultural cohesion. The point is perhaps less strong in the case of Africa than the other two continents, the more so when one considers that Africa is clearly divided ethnically and religiously between the north and sub-Saharan remainder of the continent between which there often seems little similarity. The north, Arab speaking and overwhelmingly Muslim has had continuous contact and interaction with Europe since ancient times. What I found interesting, in my researches, however, was that the ethnic division is markedly further north than the religious one. Many west African states with black indigenous populations record high levels of adherence to Islam. Gambia at 85%, Senegal at 91%, Niger at 88%, Guinea at 69% and Nigeria at 45% are examples. The same phenomenon is repeated further east with Somalia reported to be 99.8% Sunni Muslim and even Tanzania and Uganda with sizeable Muslim populations (30% and 15% respectively)[13]. My point here is that there may not in practice be quite the same sharp division between north and sub-Saharan Africa that is often supposed. Secondly, the comparative absence of reported inter-faith feuding in states which

must have a substantial mixed population of Muslims and Christians suggest an ethnic cohesiveness which can override such differences.

Turning to the second group of reasons which, I believe, distinguish Asia from the other regions, the historical, I will stay with Africa. Here, most clearly are seen the common factors that have drawn the peoples of this continent together. By the 1930s, virtually every part of Africa had either been colonised or was under white minority rule. The sole exception was Liberia but this was in itself a by-product of exploitation; Liberia had been founded by the United States as a home for freed slaves in the 1820s[14]. The final Coup de Grace to Africa had been administered by Mussolini's invasion of the then only remaining independant African Kingdom, Abyssynia (now Ethiopia).

Henceforth, the efforts of African Nationalists was directed to removing the colonisers and securing independence for their peoples, a struggle which took them well into the 1960s. Even before the issue of independence was resolved, however, another had appeared on the scene. The Union of South Africa had been granted independence under white minority rule by the Statute of Westminster 1931. Even before then it had been given a mandate to rule the former German colony of South West Africa. In 1948 the Afrikaner Nationalist Party under Dr Malan had won the (whites only) general election, and proceeded to set up Apartheid, - an institutionalised system designed to ensure that white people would hold power for all time. The struggle to overcome this system is one that has consistently united virtually the whole of Africa in a common cause.

In the Americas, independence had come far earlier, and by 1820 was no longer an issue. Thereafter the two parts of the new world developed along markedly different economic and political lines. For reasons

that are outside the scope of this study, Latin America had, by 20th Century, developed a myriad of problems; these included political instability, chronic inflation (sometimes hyperinflation), and gross disparities of wealth between rich and poor. Bolivia is reported to have had no less than 189 Coup d'Etats in 154 years and inflation was quoted at 12,000% in 1985[15]; Argentina has seen chronic instability since a military coup in 1930[16], while Columbia has been wracked by bitter civil wars in which 300,000 died between 1948 and 1957[17]. Examples such as these merely illustrate the problems which have bedevilled Latin America for many decades. They have also provided the fuel for leftist insurgency and revolution which has affected much of Latin America at various times. In the more distant past popular revolution has taken place in Mexico(1910), Bolivia(1952), and Guatemala(1944)[16]. In these cases the gains made by the revolutionaries were subsequently nullified either by a subsequent right wing coup (as in Guatemala in 1954)[16], or as in the case of Mexico by the institutionalisation of the revolution. At least one example (that of Castro's Cuban revolution of 1959) has survived, however, while the Nicaraguan Sandinista Revolution of 1979 was only reversed by elections in 1990[18]. Among the states which have been affected in the past by leftist insurgency have been Argentina (The Montoneros) and Uruguay (The Tupamaros)[19].

This common feature of instability, coupled with the threat, if not the reality of revolution, has been a constant source of concern, not just to the Governments of the day in Latin America, but also to the Government of the United States, always wary of events in its own backyard. The result has been that the U.S. has attempted to exercise hegemonic power in the area. Its role in Nicaragua is well known, not just in the mining of harbours in the 1980s but the presence of Marines in

the country between 1912 and 1933[19], while its interventions in the Dominican Republic (1965-6), Cuba (the Bay of Pigs - 1961) and, more recently, Grenada (1983) are also a matter of historical record.[20]

This factor is cited by J. Donnelly in Universal Human Rights Theory and Practice, Chapter 11 as explaining the comparative success of the inter-American human rights regime:

"But how are we to explain the fact that the American states, many of which are not notably solicitous towards human rights, allow the commission to be so powerful and so active? Part of the explanation lies in the dominant power of the United States. In the literature on international economic regimes, it is often argued that the power of a single hegemonic state is crucial to the establishment (although not necessarily to the maintenance) of strong, stable regimes. (here a footnote refers to the theory published by Keohane in 1984)...such hegemonic power...does help to explain the genesis and operation of the Inter-American regime"

Later he expands the point by including a certain level of consensus on the part of state governments as an important ingredient for formulating a successful human rights regime:

"Consensual commitment and hegemonic power are to a certain extent functional equivalents for establishing state acceptance."

This commitment by states in Latin America has, as Donnelly notes a little later, been somewhat grudging at times. In Europe, however, as he notes earlier in the same article, commitment to the concept of human rights and acceptance of the regime established under the European Commission of Human Rights have been important factors in its success:

"The real strength of the European regime lies in voluntary acceptance of the regime by its participating states. Formal procedures may support and strengthen national resolve, but in the final analysis they largely supplement national commitment and state acceptance...strong international procedures rest ultimately on national commitment which is both wide and deep in Europe."

He continues by making two further points to explain the strength and success of the European regime, those of interdependence and homogeneity - points which, I suggest have some limited application also in the case

of Africa and the Americas, but little if any, to Asia:

"A Regime's shape and strength usually can be explained largely by perceptions of interdependence, by the benefits states expect to receive or the burdens they hope to avoid, and by the risks they expect to incur in turning over authority to an international agency. The strong national commitment of the European states to human rights greatly increases the perceived value of the "moral" benefits states can expect to achieve...

..Furthermore, relatively good national human rights records reduce the political risks of strong international procedures. The European regime is also "safe" because it operates within a relatively homogeneous and close sociocultural community, which greatly reduces the likelihood of radical differences in interpreting regime norms and dramatically decreases the risk of partisan abuse or manipulation of the regime. Perceived community also helps to increase the perception of moral interdependence."

In the case of Europe, I would make the further point that at the time the regime was established, World War II and its associated atrocities were still a recent memory. Further, Europe had still more recently been divided into two antagonistic and mutually suspicious armed camps, by opposing ideologies. The need to ensure there was no repetition of the wholesale human rights abuses of the Nazi era coupled with the perceived threat from the east must, I suggest, have been a strong factor in the establishment of a successful human rights regime in Europe.

I have felt it necessary to examine the cases of the three continents with existing human rights regimes at some length, to attempt to explain why Asia does not yet have one. Virtually none of the factors which have bound the other three regional groupings seem to exist in Asia. There is no pan-Asia interstate organisation comparable to the Council of Europe, the OAS or OAU. The continent is so vast and its cultures so diverse that no sufficient common cause has been found to forge a continent-wide link between its states. The differences in culture and interest as well as the distances are enormous. Asia includes the Arab nations of the Middle East with their particular concerns over Palestinian rights,

Israel, with its diametrically opposed concerns over its very existence, the non-Arab but Islamic states further east such as Iran, Afghanistan and the newly independent members of the Commonwealth of Independent States. Pakistan is probably to be grouped with them, but for historical reasons is often considered as part of the Indian subcontinent. Then there are the disparate nations of South East Asia, some of whom have formed a regional grouping known as the Association of South East Asian Nations {"ASEAN"}. One of these, Singapore, together with three other territories further east (Hong Kong, Taiwan and South Korea) have been dubbed the four tigers on account of their meteoric economic growth in recent years; these territories are often grouped together. Then there is North Korea and Myanmar [Burma], two very isolationist states which have incurred considerable international opprobrium on account of their treatment of their own people. Japan must be considered in class of its own, - in ruins at the end of World War II, yet within a few decades a world leader in economic growth. Finally, there are the former British Dominions of Australia and New Zealand, increasingly seeking to forge a new role for themselves in the region as the United Kingdom becomes ever more Euro-centred.

Some of these nations are among the world's poorest with Bangladesh, Myanmar [Burma] and Bhutan recording figures for Gross National Product {"GNP"} per Capita in 1989 of US\$180, US\$250 and US\$190 respectively. At the other end of the scale, the equivalent figures for Kuwait (before the Gulf War), Japan and Brunei were US\$16,380, US\$23,730 and US\$14,120 respectively[21].

Respect for human rights within the region is varied and patchy. The 1991 Report of Amnesty International {"AI"} details concerns over the human rights record of most states in the region and these range from

Judicial Flogging and Amputation (Saudi Arabia), the Death Penalty (many states including China, Malaysia), arrest and detention without trial (e.g. Myanmar) and widespread torture of prisoners (e.g. Iran).

What seems to be lacking in Asia, is the national commitment, the interdependence and the perceived sense of community spoken of by Donnelly in regard to Europe. Neither has Asia had such a unifying issue as apartheid has been for the OAU and there is also nothing equivalent to the hegemonism of the USA, identified by Donnelly as important in the inter-American human rights regime. While Asia has regional great powers - India and China spring to mind, none has been able to dominate the region militarily and politically to establish such hegemony.

Japan must rank as a world rather than a regional superpower, with an average income level higher than that of the USA[22]. Yet this nation has shown conspicuously little interest in trying to exert any leadership role in the political sphere. This may be attributable partly to its constitution, Article 9 of which pledges that "land sea and air forces, as well as other war potential will never be maintained"[23]. In passing, it is interesting to note that this same constitution, approved by the USA after World War II does contain a Bill of Rights running to 31 Articles[23], and in fairness it must be noted that it has maintained the vestiges of parliamentary democracy, a free media, and (to judge from the contents of AI's 1991 Report) human rights concerns are limited to occasional application of the death penalty and insufficient safeguards against ill-treatment of persons under police interrogation.

With a record which must be counted as better than many in the region and GDP growth figures of 1,489% since 1950[24], it is regrettable that this remarkable nation has remained so much on the regional sidelines, at least in political terms. Japanese economic hegemony may be the fate

of the rest of the region and the world, but in the political sphere its relationship to the rest of Asia cannot be compared to that of the US vis-a-vis the Americas.

Is there any common cause that can bind Asians together and motivate them to set up their own human rights instrument? Colonialism? While it is true that much of the region was colonised within living memory, this has ceased to be a relevant issue for many years. Economic exploitation and imperialism? Many would claim that this is very much a live issue. The problem, however, is that many who claim this would also claim that those doing the exploiting or condoning it are themselves from the region. Some of the poorer nations no doubt feel exploited, but these-days it is at least as likely to be perceived to be at the hands of Japan or one of the four tigers, as the West.

It seems that it is only when a state's human rights record becomes so bad that refugees flee to neighbouring countries, that other states sit up and take notice. An interesting recent example has been the mounting international criticism of the Myanmar[Burma] Government, following the flight of up to 100,000 Rohingya Muslims from Arakan Province into nearby Bangladesh[25]. This criticism has emanated, not just from more traditional quarters, - the US and Europe but, unprecedentedly from some of Myanmar's ASEAN neighbours. Foremost among these has been Malaysia, probably seeing the issue in religious terms of fellow muslims under threat, but even Singapore has been heard to voice disquiet[25]. These criticisms of a fellow Asian state by others are interesting, particularly when the critics are those, such as Singapore and Malaysia who have in the past tried to resist the notion that Western concepts of democracy and human rights have any place in their societies.

An article in The Economist of February 15th 1992 at page 24 is instructive as to the different perceptions on these and other issues held by some Asian politicians. Dr Mahathir, Prime Minister of Malaysia is quoted as having said at a recent ASEAN summit that the West was arrogant for believing that its system of democratic government was right for everyone. Democracy, he argued, brought a lot of misery to many people. After quoting from other Asian leaders as well, the unnamed correspondent summarises their views thus:

"The Asians think that the economy comes first; a government's main duty is to keep the country competitive; democracy and all the rest should be thought of in terms of how well they serve economic development."

One strongly suspects that the catchphrase "all the rest" as used in this context includes mainstream views on what constitutes human rights. This is, of course, only one journalist's interpretation, but it is that of the "Asia Correspondent" of a respected and widely read international magazine. Here, perhaps, lies another reason for the lack of an Asian human rights instrument, - apart from the lack of a hegemonic power, any feeling of cultural cohesion, commitment or common interest, quite simply a feeling that human rights are of secondary importance.

It took the Nazi holocaust and the perceived threat from the Iron Curtain to galvanise Europe, chronic instability coupled with a threat of insurgency and the hegemonistic influence of the United States to help bring about a human rights instrument in the Americas, and the history of white colonialism and South African Apartheid to give life to the OAU. What would it take Asia? Dare one hope that in the New World Order, the continued existence of such pariah states within the region as Myanmar[Burma], North Korea, Iraq etc. will help to produce a change of attitude? The reaction of some of Myanmar's neighbours to recent

events in that country is a cause for optimism, even if, as one suspects their initial motivation may be sectarian or economic. This has not been the only sign, however, that times may be changing.

At the 45th Session of the UN General Assembly, the Economic and Social Council reported on Regional arrangements for the Promotion and Protection of Human Rights in the Asia and Pacific Region(Ref A/45/348). Reference was made to the Asia-Pacific Workshop for Administration of Justice on International Human Rights Issues which was held at Manila 7th-11th May 1990:

"The Workshop brought together a high level group of senior government officials and experts in the field of human rights from various parts of the world, and representatives of Governments from the Asia-Pacific Region and non-governmental organisations in consultative status with the Economic and Social Council in order to discuss various human rights issues.

The workshop considered, inter alia, Regional and National institutions for the promotion and protection of human rights and fundamental freedoms, and was addressed by representatives of the Commission on Human and Peoples' Rights of the OAU, the Inter-American Court and the European Court."

Representatives of the following countries participated in the workshop:

Afghanistan	Indonesia	New Zealand
Australia	Iran	Pakistan
Bangladesh	Iraq	Philippines
Bhutan	Japan	Samoa
Brunei	Malaysia	Singapore
China	Maldives	Thailand
Cyprus	Mongolia	Vietnam
India	Myanmar	

I have not been able to trace any follow-up (or fall-out) from this workshop; my tentative initial observation is that if Asia is to have its own regional human rights instrument then moves towards its promulgation must begin somewhere and this could prove to be the seed from which it germinates. The list of participating countries is surprising (it contains some of the region's worst alleged violators of human

rights) and encouraging (it embraces a wide range of countries of very differing economic and political systems and from all areas of Asia).

To stand any chance of success in establishing and maintaining a human rights regime, however, the regional instrument for Asia must take account of the Asian dimension. That is precisely what the three existing human rights instruments do. It is notable, as an example, that only the ACHR (16 of whose 21 States Parties as at 1 January 1990 were predominantly Catholic countries in Latin America) specifically sets out to protect the right to life from the moment of conception(Article 4), in accordance with traditional Catholic views.

By the same token, it is only in the ACHPR of the three regional instruments that one finds spelt out, not just the rights of Peoples (as contrasted with persons) but also an individual's duties. Here again I suggest regard has been had for traditional African concepts, as outlined by Shivji, of the individual's role and rights being subordinated to those of the community.

An Asian human rights instrument needs to have Asian characteristics if it is to gain local acceptance. It must be drafted by Asians and must not simply mirror the contents of the present international instruments. As with Africa, I suggest that the prevailing ethos in Asia is one that stresses community and family with the individual's duties within that scheme of things. A further point to be borne in mind is that ~~that~~ many Asian nations have ethnic and religious minority peoples whose rights have not, hitherto, always been well respected. Here again, a leaf can perhaps be taken out of the African Charter, with its provisions for the rights of peoples.

Keeping in mind the very mixed political ideologies represented among the nations attending the Manila workshop, any instrument, to have any

hope of commanding broad support must be general in its initial terms. As the concept of outside monitoring gains acceptance and as the status of and acceptance for the instrument increases, then perhaps optional protocols can be formulated. This gradualist approach is no different from what occurred with the ICCPR, the ECHR and the ACHR.

As for enforcement, the preferred method of settling disputes in many oriental societies is by conciliation and compromise. One could envisage an enforcement mechanism which relies upon conciliation initially, to be followed, if unsuccessful by some form of arbitration. A Court, along the lines of the European Court of Human Rights or the Inter-American Court of Human Rights is unlikely to commend itself to most Asian states.

The world has seen cataclysmic changes over the past few years. In some ways the outlook is better now than ever before in the fields of genuine democracy and respect for human rights. Although there are many factors which have, until now, militated against the promulgation of a human rights instrument for Asia, one would like to believe that the tide is now turning. One may hope that some sort of regional monitoring mechanism for human rights in Asia may be in place perhaps ten years from now.

Appendix

- [1] The New Encyclopaedia Britannica, 15th Ed., Volume 20 p 660
- [2] Ibid p 663
- [3] The Times Atlas of the World, 7th Ed., p xiv
- [4] The New Encyclopaedia Britannica, 15th Ed., Volume 1 p 630
- [5] Ibid Volume 3 p 281
- [6] Ibid Volume 9 p 122
- [7] Ibid Volume 26 p 927
- [8] The Economist Atlas, 1991, pp 159-213
- [9] The Times Atlas of the World, 7th Ed., p xiv
- [10] Britannica World Data Annual, 1991, p 761
- [11] Ibid p 760
- [12] The Economist Atlas, 1991, pp 120-157
- [13] Ibid, pp 272-297
- [14] The Times Atlas of World History, 1985, p 238
- [15] The Economist Atlas, 1991, p 153
- [16] The Times Atlas of World History, 1985, pp 286-7
- [17] The South American Handbook, 1987, p 468
- [18] The Economist Atlas, 1991, p 134
- [19] The Times Atlas of World History, 1985, pp 286-7
- [20] Ibid
- [21] The Economist Atlas, 1991, p 215-247
- [22] Ibid, p 234
- [23] The New Encyclopaedia Britannica, 15th Ed., Vol 22, p 332
- [24] The Economist Atlas, 1991, p 234
- [25] The South China Morning Post, 11th March 1992
- [26] Report on BBC World Service News 11th March 1992

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