

STATEMENT BY MR. AK. BHATTACHARJEE, MINISTER ON AGENDA ITEM 119 - HUMAN RIGHTS QUESTIONS, 119(A) IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS, 119(B) HUMAN RIGHT QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHT AND FUNDAMENTAL FREEDOMS, 119(C) HUMAN RIGHT SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Mr. Chairman,

For her deep commitment to the cause of human rights in all parts of the world and her contribution in raising the standards of human rights, the High Commissioner for Human Rights has been nominated to receive the prestigious "Indira Gandhi Peace Prize" on 19th November, 2001. We congratulate her whole-heartedly.

We also thank the High Commissioner for Human Rights for her recent inter-active dialogue with this Committee. The High Commissioner stated that, in limiting some rights for legitimate and defined circumstances in efforts to counter terrorism, the principles of "necessity and proportionality" must be applied. The basic framework for such responses, she said, should be human rights. While agreeing with the broad thrust that responses should not be unfettered and human rights violated, the overriding Charter principles of nations defending their sovereignty, territorial integrity and security of their peoples are the parameters under which the necessity of limitations to rights and the proportionality of response should be considered. This, the High Commissioner has herself acknowledged in the aftermath of the terrorist bombings in September when she said "...the actions strike at the fundamental human right of every person and are totally unacceptable".

The preamble of the Universal Declaration on Human Rights states that a "common understanding of the rights and freedoms" is of the greatest importance for the full realisation of the pledge contained in the International Bill of Human Rights. The "common understanding" that was achieved in 1948, has translated itself today into a division of opinion reflected in the unequal stress on Civil & Political rights on the one hand and Economic, Social and Cultural rights, on the other. There is also a an imbalance between individual and collective rights in the promotion and protection of human rights. These trends have led to a deep politicisation of human rights issues which is regrettable.

Witnessing these trends, in this very Committee five years ago, my delegation urged all nations to:

- (a) to work together in a spirit of cooperation, while refraining from confrontation;
- (b) to be impartial, non-selective and fair while engaging in the question of human rights;
- (c) to recognise and jointly combat the threats to human rights posed by terrorism, by terrorist groups and states sponsoring and supporting terrorism; and finally,
- (d) to make the human rights mechanisms and machinery impartial, credible and representative of all regions of the world.

This holds true even more today.

The Universal Declaration on Human Rights was a proclamation not only of specific rights and freedoms that apply to all human beings but it was also a statement on the 'nature' of man when it proclaimed that "all human beings are born free and equal in dignity and rights" and that "they are endowed with reasons and conscience". An audit of the suffering of humankind through violations of fundamental freedoms and human rights throughout the world since the Declaration was adopted, would not suggest that an age or an era of enlightenment has dawned upon humankind or, not even that in certain parts of the world there is enlightenment and the rest live in darkness. Therefore, the disparity and selectivity in the invocation of the human rights in international discourse has made it an object of cynicism. Universality of human rights can only be achieved when lives everywhere and in every part of the world are held in equal esteem, value and sanctity. Application of different yardsticks to oneself and to others can only cause limitations to be placed in that enlightenment that was sought by the Universal Declaration.

Mr Chairman,

Since the agenda item before us is vast we will comment on the reports before us, very briefly.

On the report of the High Commissioner for Human Rights, firstly, it identifies certain challenges in the field of promotion and protection of human rights. Among these, there are areas in which there is no intergovernmental agreement, leave alone a process. One such area is the concept of a global compact. We do not see any partnership or compact that is Secretariat driven to have an impact on the ground unless member states achieve consensus on the principles that would guide such partnerships or compacts. Secondly, though the report refrains every year from commenting on the availability of resources to achieve its mandate, we have continued to express our disquiet that a disproportionate share of non-budgetary resources go into the work of the Office and that this has its political implications. Donor-driven activities could lead to a diminution of the priorities of the developing countries.

We would like to express our appreciation for the work of Sir Nigel Rodley, the erst-while Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment. Though we did not agree with him on all issues and methods, his hard work and belief in his mandate were commendable. We are certain that in his new capacity in the Human Rights Committee, he would be equally effective. His report before us mainly stresses the question of impunity. While we agree that impunity and its eradication are important, we would have been interested in a development of his report last year in which he explored the crucial inter-relationship between poverty and torture.

In the report of the Representative of the Secretary General on internally displaced persons, we note the crusade to have the Guiding Principles on internally displaced persons accepted as a "normative framework". However, the fact remains that these Guiding Principles were not inter-governmentally negotiated and therefore, have no inter-governmental legitimacy. Having said this, we appreciate the fact that the Representative has met with a number of governments and intends to broaden and intensify his consultations with States on the issue of the Guiding Principles. The report of previous years

and this one too, treats the problem of internal displacement as one caused only by conflicts. The fact, however, is that a huge volume of displacement within countries takes place due to natural disasters, poverty and economic insecurity. The stress on conflicts in relation to internal displacement has prompted an unhealthy trend to seek the application of the 1951 Convention on Refugees to the internally displaced.

We have read the report of the Special Rapporteur of the Commission⁷⁶⁷ of Human Rights on freedom of religion or belief, Mr. Abdelfattah Amor, with great interest. We appreciate his efforts in trying to prevent the destruction of the Bamian Buddhas. We cannot but agree with the Special Rapporteur that the Taliban is not just an instance of the misuse of religion but also a manifestation of obscurantism.

In para 41 of his report, Mr. Amor has stated that a communication was sent to my country on statements allegedly made by the Prime Minister to Parliament. In his oral presentation, Mr. Amor said that replies had been received from my government but what he did not say was that the allegation was completely and blatantly false. The formal response is with the Special Rapporteur. Complaints against Heads of State or Government are a serious matter; they should not be reports which form a part of the official record without thorough investigation and verification. This slipshod manner of working can call into question the credibility and the standing of the Special Rapporteur.

In the Special Rapporteur's report, we have also seen information on preparations for the International Consultative Conference on School Education in relation to freedom of religion on belief tolerance and non-discrimination. While we appreciate the importance of education as a fundamental tool to battle intolerance, fundamentalism and obscurantism, we would have liked this process to have been an intergovernmental evolution, rather than a process outside of it. It must be remembered that it is the responsibility of national governments to frame policies and implement changes in the education system in order to promote tolerance, morality, respect, understanding and the oneness of humankind. We hope the results of the Conference in Madrid which will be taking place exactly a week from today, would be inter-governmentally debated later. A word on the statistical analysis of the communications which has consumed a fair share of the 73 page report. There seems to be a tendency to provide direct and positive correlation between the number of communications sent by the Special Rapporteur and the state of religious intolerance in the world. The communications are sent by the Special Rapporteur based on his own assessment of the validity of each complaint that he receives. The subjectivity introduced through this in a statistical presentation makes this kind of an analysis difficult to accept.

We consider the enhancement of the effectiveness of the principle of periodic and genuine elections to be crucial in countries where democracies have either been usurped or where democratic governance is being introduced. There will be greater demands placed on the United Nations as the number of democratic countries continues to grow. We appreciate the work that has been done till now, but to put a time limit of four months advance request by countries needing such assistance may not work in tandem with the political processes in many of these countries. Peace processes take place through negotiations and requests for electoral assistance may come in on a real time basis. The Electoral Assistance Division under the Under Secretary General for Political Affairs should be geared to meet these challenges.

Mass exoduses take place for a number of reasons including conflicts, famine, economic insecurity, poverty and deprivation, as well as natural calamities. The General Assembly had requested a report on the causes of exoduses and displacement but before the causes have been identified, recommendations have been proffered. The report on Human Rights and Mass Exoduses also contradicts itself when it makes recommendations in para 44 only within the matrix of conflicts as the cause and consequences of mass exoduses, while at the same time acknowledging in its first paragraph of the introductory section, that there are wider causes.

The Note by the Secretary General on the activities of the Special Rapporteur on the Commission for Social Development on disability entitled "Human Rights of Persons with Disabilities" underlines the importance of the realisation of equality and equal opportunity for the disabled. There have been expressions of the need to have an instrument on disability, though there is no consensus. From our point of view, the harmonisation and the standardisation of the very definition of disability requires due attention.

Mr. Chairman,

Promotion is the best protection of human rights. Education is a vital tool to achieve this. Human rights education is, in particular, crucial. Therefore, we have read with interest the Note by Secretary General transmitting the report of the High Commissioner for Human Rights on the United Nations Decade for Human Rights Education, 1995-2004. The mid-term evaluation of the decade, which was presented in the last General Assembly, clearly brought out the importance of systematising and implementing human rights education under the auspices of the Decade. One of the obstacles which developing countries face in promoting education, particularly, human rights education, is the lack of resources and here we would stress the importance of international cooperation in enabling countries to achieve human rights education for their peoples.

Defenders or advocates of human rights are an important part of civil society and fulfil a useful role in the promotion and protection of human rights. This is why India had voted for the resolution establishing the mandate of the Special Representative of the Secretary General on Human Rights Defenders. The very first report to the General Assembly, however, gives the impression of Governments being on the one side of the fence while the defenders are on the other. There is an offender - defender syndrome that emanates from a detailed reading of the report. This is reflected in the statement in the report (paragraph 55) that the major reason for lack of progress in creating an enabling environment for the promotion of human rights and the "protection of defenders" is "the level of tension between the state and civil society". We would have liked to see more analysis, rather than bald statements which entrench clichés.

The Right to Development is an inalienable right without which there can be no realisation of fundamental rights and freedoms. Poverty, marginalisation and social anomie, more often than not, imperil the full realisation of all human rights and also degrade the capacity of national governments to achieve these rights. Right to Development has to be looked in that crucible and implemented. It is unfortunate that since the Declaration was adopted in 1986 and reiterated by the Vienna Declaration and Programme of Action in 1993, progress in its implementation has been tardy. In the last year or so, there has been some progress with the meetings of the Working Group in Geneva under the able leadership of

Ambassador Dembri of Algeria. Broad consensus was achieved on the way forward. We look forward to the next meeting of the Working Group scheduled in early December and we hope that this meeting would now focus on the implementation of the right to development. We believe that the time has come now to translate ideas into concrete actions.

Impediments to the full enjoyment of all human rights in a world that is globalising rapidly warrant closer attention than has been devoted so far. Elsewhere, the Secretary General reports that more and more people are being drawn into the vortex of poverty and marginalisation due to the consequences of globalisation. Unless these impediments are removed, through strong international cooperation which enables countries that are underdeveloped to realise a better standard of living, globalisation would achieve a level of inequality that would be unacceptable under any human rights standards or norms. To achieve the removal of impediments, those countries that have benefited from a greater bargaining strength, should demonstrate a political will to achieve equity in the international global order.

The majority of victims of hunger, 515 million, or about a quarter of the total population of the continent live in Asia alone. The impact of hunger is extreme, both physically and psychologically. This vests the report of the Special Rapporteur of the Commission of Human Rights on the Right to Food presented in the General Assembly for the first time this year with great importance. The impact of international trade on the right to food brings out the fact that the trade rules governing agriculture affect the food security of the poorest. Developed countries have yet to liberalise their agriculture, despite the provisions under the WTO Agreement on Agriculture to create a level playing field in the agricultural trading system in terms of market access, export subsidies and domestic support. The protection accorded to the agriculture sector has generated a disincentive to agricultural production in developing countries, thereby affecting their food security.

No greater issue dominates our minds today than the question of elimination of terrorism. Terrorism has serious and adverse consequences for the full enjoyment of all human rights and is totally at odds with the norms of democracy and liberal, plural societies. India as a victim, had time and time again, called upon the international society to focus on the growing menace of terrorism and its impact on human rights, particularly, on the right to life. Unfortunately, in this Committee, the resolution on "Human Rights and Terrorism" had to face a vote and explanations were made by those countries that voted against it, that only states were violators of human rights and also that terrorism was purely a criminal activity and had no links with human rights. We hope that perceptions have now changed and when the resolution comes up in the Committee this year, it will be adopted by consensus. It is also our belief that the resolution should be presented on an annual basis, both, here and at the Commission on Human Rights.

Mr. Chairman,

Nothing protects human rights better than Institutions that are embedded firmly in the governance of countries. National Institutions for the promotion and protection of human rights, therefore, are one of the best mechanisms for a culture of respect for human rights. The report of the Secretary General on National Institutions for the Promotion and Protection of Human Rights highlights the growing number of national institutions that are being put in place by countries irrespective of whether they come from the developed world

or the developing group of countries. We commend the activities of the High Commissioner for Human Rights in this critical area, but we would like to see more being done in the consolidation of these activities, including, through provision of greater resources. The cooperation between and amongst National Institutions of various countries has been expanding and this is an area which must receive full support of member states and the Secretariat. For, only through such cooperation can the experiences and practices in individual countries bring forth the broadest of agreements in the promotion and protection of human rights. A small beginning was made at the 56th Session of the Commission on Human Rights when representatives of the National Institutions were given a chance to be represented at its meetings. We also find the activities of the International Coordination Committee including its annual meetings to be a useful methodology for the promotion of human rights throughout the world.

India has piloted a resolution on the National Institutions on a biennial basis. We are presenting a resolution this year which updates the previous one to take into account the activities of National Institutions and we hope that all countries would support it through co-sponsorship and adopt it by consensus.

Thank you, Mr. Chairman.