

At the San Francisco Conference in 1945 at which the United Nations was established, about 40 non-governmental organizations (NGOs) representing women, trade unions, ethnic organizations and religious groups had combined with government delegations, mostly from smaller countries, and pressed for more specific language on human rights than had been proposed by other states. Their determined lobbying resulted in the inclusion of some provisions on human rights in the United Nations Charter. That laid the foundation for the post-1945 era of international law-making.

The Preamble to the Charter explicitly reaffirms "faith in the fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small". Article 1 establishes that one of the four principal tasks of the United Nations is to promote and encourage "respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion". Three years after the United Nations was created, the General Assembly laid down contemporary human rights law in the shape of the Universal Declaration of Human Rights (UDHR), intended as a "common standard of achievement for all peoples". It was adopted on 10 December 1948. The day is now observed worldwide as International Human Rights Day. Besides, it is traditionally on 10 December that the five-yearly UN prize in the field of human rights and the annual Nobel Peace Prize are awarded.

Drafted by a committee chaired by Ms. Eleanor Roosevelt of USA, it was adopted without dissent but with eight abstentions. The UDHR is a milestone document that proclaims the inalienable rights which every human being is entitled to regardless of race, colour, religion, sex, language, political or other opinion, national or social origin, property, birth or other status. Among its 30 original articles are definitions of civil and political rights including the rights to life, liberty and a fair trial as well as definitions of economic, social and cultural rights including the right to social security and to participate in the cultural life of one's community. All these rights are owed by UN member states to those under their territorial jurisdiction.

The declaration has been the foundation of the work of Amnesty International and other NGOs. It has acquired more juridical status than originally intended and has been widely used even by national courts as a means of judging compliance with member states' human rights obligations.

The UDHR is the most translated document in the world (except for the Bible), available in more than 500 languages which is a testament to its global nature and reach. Even though not a member of the drafting committee, India was represented by Ms. Hansa Jivraj Mehta who took a leading part in the drafting of UDHR as an Indian delegate. She became the vice chairman of the Human Rights Commission of UN in 1950. She became famous for highlighting the need for gender equality. India as a newly independent country was a signatory to the six core human rights covenants.

Human rights are rights that

# Humans and their rights

**While the Universal Declaration of Human Rights remains a potent instrument for ensuring the rights of human beings, measures to close gaps must engage the world, argues H KHASNOBIS**

belong to an individual as a consequence of being human. The term came into use after World War II, replacing the earlier phrase "natural rights", which had been associated with the Greco-Roman concept of Natural Law since the end of the Middle Ages. As understood today, human rights refer to a wide variety of values and capabilities reflecting the diversity of human circumstances and history. They are conceived of as universal, applying to all human beings everywhere, and as fundamental, referring to essential or basic human needs. All human beings are born free and equal in dignity and rights.

Since the adoption of the UDHR in 1948, many treaties and agreements for the protection of human rights have been concluded through the auspices of the UN and several regional systems of human rights law have been established. In the late 20th century, ad hoc international criminal tribunals were convened to prosecute serious human rights violations and other crimes in the former Yugoslavia and Rwanda. The International Criminal Court which came into existence in 2002, is empowered to prosecute crimes against humanity, crimes of genocide and war crimes.

The UN has helped enact about 80 comprehensive agreements on political, civil, economic, social and cultural rights. By investigating individual complaints, UN human rights bodies have focused world attention on cases of torture, disappearance and

arbitrary detention and generated international pressure on governments to rectify their human rights records. The UN has also worked to prevent genocide, abolish slavery, combat torture and eliminate all forms of discrimination based on race, gender, religion or beliefs. It has helped beneficiaries ranging from refugees to the aging and disabled. It has also worked to protect prisoners, migrant workers and indigenous peoples.

There was a wide and serious debate on the question whether the UN should intervene in a country to stop gross, systematic and widespread violations of human rights. The question was raised in 1998 by then Secretary-General Kofi Annan. In the wake of genocide, crimes against humanity and war crimes in Central Africa, the Balkans and elsewhere, the Secretary-General argued that the UN should agree on legitimate and universal principles, within the framework of international law for protecting civilians against massive and systematic human rights violations. The legal framework was provided by universal norms embodied in the UN Charter, international humanitarian law, human rights law and refugee law. Under these instruments, the Security Council could intervene in internal conflicts arising out of abuse of human rights by authorizing the creation of safe corridors, safe areas in conflict zones, imposing sanctions against recalcitrant states or taking other measures. At the same time, Kofi Annan

had warned that such coercive action would have the support of the world's people only if it was fairly and consistently applied without discrimination.

In the ensuing debate, one group of nations maintained that in the face of massive human rights violations and crimes against humanity, the responsibility of the UN to prevent violations was paramount. In the last resort, human rights could be legitimately protected through the military force authorized by the Security Council. Another group of states argued that the notion of humanitarian intervention had the potential to undermine the UN Charter, eroding the sovereignty of states and threatening legitimate governments and the stability of the international system. They emphasized that measures to protect human rights should respect the independence, sovereignty and territorial integrity of all countries, with the support of the government in power and people of the country concerned. The moral rights and wrongs of this complex issue have continued to be debated and the principles involved are likely to be tested again when major human rights crisis challenges the international community.

Although, the UDHR is not a binding document, it has inspired more than 60 human rights instruments which together constitute an international standard of human rights. Today, the general consent of all UN member states on the basic human rights laid down in the Decla-

ration makes it ever stronger and emphasizes the relevance of human rights in the daily life of every human being. On ground, however, the situation is not that hopeful and optimistic.

Ms. Eleanor Roosevelt who chaired the drafting committee had referred to the UDHR as humanity's Magna Carta. Yet, she expressed her doubts and said, "where, after all, do universal human rights begin? In small places, close to home - so close and so small that they cannot be seen on any maps of the world. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world". These comments hold good even today.

Ms. Louise Arbour, UN High Commissioner for Human Rights said on 10 December 2006, "Today, poverty prevails as the gravest human rights challenge in the world. Combating poverty, deprivation and exclusion is not a matter of charity and it does not depend on how rich a country is. By tackling poverty as a matter of human rights obligation, the world will have a better chance of abolishing this scourge in our lifetime. Poverty eradication is an achievable goal". Louise Arbour spoke these words on International Human Rights Day 14 years ago. Her comments are so real and true even today.

The theme for the 2020 International Human Rights Day is "Recover Better- Stand Up for Human Rights".

The theme relates to the Covid-19 pandemic and focuses on the need to build back better by ensuring that human rights remain central to recovery efforts. As the UN press release notes, "Common global goals can be reached only by creation of equal opportunities for all, addressing the failures exposed and exploited by Covid-19 and applying human rights standards to tackle entrenched, systematic and inter-generational inequities, exclusion and discrimination".

UDHR is a powerful tool in the fight against oppression, impunity and affronts to human dignity. Despite the efforts of the UN, there continue to be massive and widespread violations of human rights worldwide. Seven decades after the adoption of the UDHR, violations across the broad spectrum of human rights continue to dominate media headlines. At least part of this can be attributed to the ever-increasing awareness of human rights and stepped-up monitoring of problem areas. That way, human rights campaign has become a success story. Deepening poverty, rising inequalities, structural and entrenched discrimination and racial injustice aggravate and accentuate human rights violation. Measures to close these gaps will ensure a world that is livable, better, more resilient, just, sustainable, egalitarian and equitable. That is the message for International Human Rights Day 2020.

The writer is a former central civil service officer who retired from the Ministry of Defence.

## DEMOLISHING THE VIRILITY MYTH

**Legal, institutional, scientific and conservation efforts must come together to stop the illicit trade in tiger and rhino parts, say ARMIN ROSENCRANZ, HARSH VARDHAN BHATI and ABHIROOP CHOWDHURY**

A 2019 report by the United Nations Office on Crime and Drugs pointed out that the illegal global wildlife trade is a multibillion-dollar business with much of it concentrated in Southeast Asia. At these destinations many affluent customers are willing to fork out minor fortunes for these animal parts, often in the belief that they possess curative properties according to the tenets of Traditional Chinese Medicine (TCM) which originated perhaps as long as 5,000 years ago.

Wildlife body parts have been an integral part of TCM historically; improving virility remains a myth. The virility myth has no basis in science or medicine, although it is believed in by perhaps 1/4 of the earth's inhabitants. The concept of virility can be traced back to the Greco-Roman world: Scholar Maurice Sartre develops the concept of andrea, or "maleness". 'Andrea' reflects the prowess a male shows in the battlefield and the blood he can spill in war.

Richard Ellis, author of 'Tiger bone and rhino horn' wrote in 2005 that while the majority of products used in TCM are plant-based and many others are derived from domestic animals, the use of the body parts of endangered species such as rhinos, tigers and bears is a major cause of declining populations for these species.

In 1993, rhino horn and tiger bone were removed from traditional Chinese pharmacopoeia, and in 2010 the

World Federation of Chinese Medical Societies released a statement urging members not to use tiger bone or any other parts from the endangered species. However, tiger genitals, tiger bones and rhino horns are still in great demand in Asian markets for their alleged role in improving sexual performance of males. Tigers are showing decreasing population growth trends and are in 'Endangered (EN)' category of IUCN red list. The population of rhinos also decreasing due to poaching and habitat destruction as per IUCN records.

### TIGERS

For centuries, tigers have inspired awe, reverence and sometimes, terror in the humans they've lived beside. The linkages between tiger body parts like paws, claws, bones, skull, penis and 'aphrodisiac' properties is due to the portrayal of the regal animal as an epitome of power in Chinese myth.

Use of tiger body parts as a delicacy, aphrodisiac or decoration has a colonial mind set attached to it where tigers were hunted as a gesture for proving the individual's royal or power status. Chinese tiger conservation efforts are only visible in increasing tiger population in captivity or tiger parks while they are almost hunted to extinction in the wilderness. Because the demand for tiger products continues to grow, poaching is still prominent in India, Russia and southeast Asia. Scientific literature indicates that around 10,000 tigers populated the

Asian wilderness at start of the 19th century while by late part of that century the count plummeted to around 7,000 and now there are only about 4,000 tigers in the wild.

By contrast, captive tigers now outnumber the wild population, with more than 7,000 tigers being kept in captivity in facilities in China, Laos, Myanmar, Thailand, and Viet Nam as well as in tiger farms in South Africa. Reports indicate instances of stoning of tiger carcasses at Tiger parks for subsequent sale when the product ban on wildlife animal parts would be lifted in China. A large number of these facilities have been implicated in the illegal trade in captive-bred tigers and their parts and derivatives. At least 30 per cent of the seizures of tigers and their products between 2012 and 2015 were identified as having originated from captive breeding facilities, primarily from Thailand, followed by Vietnam and Laos. Conservationists contend that these tiger breeding centres would fuel more illegal wildlife trade rather than putting a halt to it, as claimed by Chinese authorities.

### RHINOS

TCM used rhino horn for alleviating fever or relieving the symptoms of arthritis or gout. According to reports, rhino horns can also be used to treat headaches, hallucinations, high blood pressure, typhoid, snakebite, food poisoning and supernatural possessions. But there is no scientific validations of these claims. There are no

records in TCM texts for its use for improving 'virility' or sexual prowess of males. However, research has shown that people in Vietnam commonly prescribe its use as an aphrodisiac. Wildlife Scientist Eric Dinerstein wrote in 2003: "In fact, TCM never has used rhinoceros horn as an aphrodisiac: this is a myth of the Western media and in some parts of Asia it is viewed as a kind of anti-Chinese hysteria". The fact that rhino horn medicine lacks scientific or medical validity leads rather too quickly to an implication that its consumption must be traditional. However, the world is full of beliefs and practices which are irrational, superstitious, or without scientific validity, but that does not mean that they are necessarily traditional: they can be all these things and still be modern or even post-modern without historical precedent.

According to conservationists, South Africa is home to about 70 per cent of the world's rhinos. Poaching has grown substantially, from 13 rhinos in 2007 to 1,054 in 2016. John Hume, a South African rhino farmer, owns more rhinos than anyone else in the world - as of August 2016, around 1,500. In 1977, the international trade in rhino horn was banned, but it remained legal within South Africa. A spike in rhino horn poaching to meet demand from Asia encouraged the environment ministry of South Africa to pass the ban in 2009. But that meant rhino farmers like Hume, who in part made their living from the rhino horn trade in South Africa, suddenly saw the value of their product drop to zero. They couldn't sell horn anymore. So they sued the government. And a final court ruling in April 2017 opened the way for domestic trade to begin again.

### INTERNATIONAL PRESSURE

Hong Kong customs authorities have confiscated more than one million dollars worth of rhino horn transit to Vietnam at start of 2019. Vietnamese authorities seized more than seven million dollars worth of rhino horn and three frozen tiger cub corpses in July 2019, suggesting the quantum of this illegal trade. Implementation of international agreements such as CITES aims to put a halt in this illegal trade to save the endangered wildlife population across the globe. In 2007, CITES parties' agreed not to breed tigers for trade. This is especially important since only 4,000 tigers exist in the Southeast Asian wilderness while more than 7,000 are in captivity. But recent developments like the Chinese policy expanding their traditional medicine market through their Belt and Road initiative, are putting pressure on global wildlife conservation efforts.

This projected road system and its southern offshoot passing through Pakistan cuts through major wildlife habitats. Reports suggest that this would create supply corridors, increasing poaching and wildlife trade. And there are alarming reports that China is planning to lift its ban on the use of rhino horns and tiger parts in medical experimentation and Chinese medicinal products.

### MODERN SOLUTIONS

Many cultures have their own systems of alternative medicine, whose effectiveness cannot always be proven according to contemporary scientific analysis. They are usually regarded as mere cultural myths, such as the use of the tiger penis to increase virility in TCM. At the same time, the huge demand for wild animals in TCM poses a threat to endangered species. This results in a conflict between traditional values and environmentalism. By hybridizing Chinese Medicine, and combining it with methodology of Synthetic Biology, Kuang Yi Ku set out

to bridge this gap with Tiger Penis Project at social design department of Design Academy Eindhoven. Pembient, a Seattle Based start-up is working on a bio-fabricated rhino horn and preparing to launch by 2022.

Synthetic tiger and rhino parts are also facing pushbacks from conservationists. Synthetic horns could create major enforcement concerns: It would be hard to distinguish between real vs. fake and legal vs. illegal. This issue of how to regulate a growing number of synthetic replacements for wild animal parts have been discussed in CITES and IUCN meetings as well. To get around the idea that synthetic products would "cover" for the illegal trade, Pembient intends to mark its horns with a DNA watermark, which would only be accessible to trusted law enforcement agencies.

In May 2020, Kaziranga National Park authorities reported that an adult male Indian rhinoceros was gunned down and its horn was hacked off. This is, already, the third incident of Indian rhino poaching in 2020.

With the Covid-19 pandemic and its associated economic problems, wildlife trade can fill some of the economic vacuum. This would threaten the survival of the regal tigers and endangered rhinoceros for the foreseeable future. Based on scientific evidence, the myth behind the traditional use of Rhino horn and Tiger body parts in TCM should be challenged. Socio-economic marginality and limited awareness is fuelling this trans-boundary illegal trade on wildlife resulting in demise of endangered fauna and limiting conservation efforts at Eastern Asia. International policies such as CITES need to be implemented across the globe. With joint efforts of international agencies, conservationists, and legal stakeholders this nefarious trade can be stopped.

The writers are on the faculty of the OP Jindal Global University.

