**Candid notes on the NHRC’s status deferral**

The National Human Rights Commission of India (NHRC) was formally informed late last week that the deferral of its status would continue for a year more. The deferral was put in place by the sub-committee on accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI) for a year, in 2023. While the SCA did not agree with the plea of some leading international non-governmental organisations, to put the NHRC in category ‘B’, it also rejected India’s request to lift the deferral.

The NHRC chairperson, a former Justice of the Supreme Court of India, Justice Arun Mishra, and the government may have been unhappy with the continuing deferral but are sure to be relieved that they have avoided the ignominy of a downgrade. The NHRC, directly and, the government, from behind the scenes, had lobbied hard for the deferral to be removed and the cloud over India’s ‘A’ status goes away. Justice Mishra retires in early June and, if the new government to be formed in June after the general election 2024 does not reappoint him, he will be the first NHRC chairman to leave the organisation with the sword of Damocles hanging over its head. This would only strengthen the initial doubts raised about his appointment.

The NHRC brochure

A peep into Justice Mishra’s approach to human rights is available from a brochure published by the NHRC, titled ‘Human Rights 75’. The document was put out as part of the celebrations of ‘Azadi ka Amrit Mahotsav’. In its introduction the document sought to establish that “India’s earliest civilisations… laid the fundamental edifice for some basic human rights principles”. To substantiate this point it referred to ancient texts such as the Vedas and the Upanishads. It rightly asserted that they promoted the exploration of spiritual truths. Thereafter, the publication went on to state, “The concept of justice and fairness is also central to ancient Indian literature. The Manusmriti, while reflecting the social norms of its time, also outlines principles of justice, including punishment proportionate to the crime”.

For crores of historically disadvantaged Indians, the Manusmriti is the fountainhead of the evil of discrimination and violence they have suffered. Its mention in a NHRC document, despite the routine caveat attached to the reference, will be outrageous to them and to those who are pledged to uphold the Indian Constitution. Was the Manusmriti’s mention an oversight or does it reflect the considered views of Justice Mishra? Even at this stage a clarification would be useful. He would certainly know that the foundational values of the Indian Constitution are in direct conflict with the basic postulates of the Manusmriti.

Drifting away from the Paris Principles?

Certainly, the GANHRI’s decision has not been influenced by the reference to the Manusmriti but because of the belief that India has not been adhering to the Paris Principles. In early 2017, the SCA had put the NHRC in the deferral category but it was lifted after a review later that year. Hence, India retained its ‘A’ status.

In a public note on that occasion, the NHRC had stressed the importance of the ‘A’ status. It stated, “‘A’ status accreditation also grants participation in the work and participation of the GANHRI, as well as the work of the Human Rights Council and other UN mechanisms”. On the Paris Principles the NHRC noted, “The United Nations’ Paris Principles provide the international benchmarks against which the National Human Rights Institutions (NHRIs) can be accredited”. The Paris Principles were adopted by the UN in 1993. The NHRC stated that the Paris Principles set out “six main criterions that NHRIs are expected to meet. These are: Mandate and competence, Autonomy from Government, Independence guaranteed by a Statute or Constitution, Pluralism, Adequate Resources; and adequate powers of investigations. The GANHRI found the NHRC, India compatible with these criterion” and so gave it ‘A’ status. That was then. But now, the GANHRI’s doubts continue, obviously.

This is a peer-reviewed evaluation

The GANHRI evaluation process is a peer-reviewed one and hence cannot be dismissed as the government has done, since 2019, any criticism of the human rights situation in India. Indeed, External Affairs Minister S. Jaishankar has been especially sensitive to charges of the Narendra Modi government falling short in observing civil liberties and fundamental freedoms. He has, in response to criticism of India on these issues, pointed to the deficiencies in the West on these fronts. He has been acclaimed in India for doing so. Much of the criticism of the West for weaponising human rights is valid but the diplomacy of criticising the West and those who lecture India need not have been abrasive. Firmness does not need the use of the bludgeon of harsh language but the rapier of logic and reason. It also requires the acceptance that India, like all other countries, is not perfect. But such approaches are considered timid in these muscular times.

It is not clear if the Jaishankar muscular approach was adopted by the NHRC in dealing with the SCA. If it was, it has obviously not succeeded. The continuing deferral proves this. But there is a more substantial issue involved. This is the attitude of the government towards the NHRC. Doubts arise because of the nature of the appointments to it and also because of the continuing vacancies in the body. Finally, the NHRC itself has a lot to introspect about.