



RIGHTS monitor



ICC issued its first arrest warrant in DRC

The International Criminal Court (ICC) announced that it has issued its first arrest warrant in its investigation in the Democratic Republic of Congo (DRC), and that the suspect is in custody en route to The Hague. The news is a welcome first step toward ending impunity in Congo, but more is needed, Human Rights Watch said.

participation of non-Congolese forces. Ituri in particular became a battleground between the governments of Uganda, Rwanda and the DRC. These governments have provided political and military support to Congolese armed groups despite abundant evidence of their widespread violations of international humanitarian law. The ICC



These are just four photos in a secret archive of thousands of photos and reports that document the genocide under way in Darfur. - milian.blog.lemonde.

Almost two years after the ICC prosecutor announced the opening of the investigation, the court last month issued a sealed arrest warrant against Thomas Lubanga, leader of the Union of Congolese Patriots (UPC), an armed group responsible for war crimes and crimes against humanity in the Ituri region of north-eastern Democratic Republic of Congo. The warrant, unsealed today, charges Lubanga with the conscription and recruitment of child soldiers who were used to participate actively in the conflict.

prosecutor, Luis Moreno Ocampo, has repeatedly stated that he will bring to justice those who bear the greatest responsibility for serious crimes.

"Chief Prosecutor Ocampo should also investigate those who armed and supported militia groups operating in Ituri, including key players in power in Kinshasa, Kampala and Kigali," said Dicker. "The crimes committed in Ituri are part of a broader conflict in the Great Lakes region, and the court should finally pierce the veil of impunity that stretches beyond Congo's borders."

"Thomas Lubanga's arrest offers victims of the horrific crimes in Ituri some hope of seeing justice done at last," said Richard Dicker, director of the International Justice Program at Human Rights Watch. "Congolese civilians have already endured far too much terrible suffering. It is long past time to end the culture of impunity, and the ICC has taken its first step towards that goal."

In April 2004, the transitional Congolese government referred crimes committed in the country to the ICC. On June 23, 2004, the prosecutor announced the beginning of the court's investigation in the DRC.

The International Criminal Court, based in The Hague, has broad international support. Currently, 100 countries have ratified the Rome Statute establishing the court, and nearly 140 have signed the Rome treaty. In 2003, states elected the court's first 18 judges and its prosecutor. On October 14, 2005, the court unsealed its first arrest warrants, for Joseph Kony, Vincent Otti and three other officers of the Lord's Resistance Army (LRA) in Uganda. To date they have not been apprehended.

Ituri is one of the areas worst hit by Congo's devastating war, which is still underway. A local conflict between Hema and Lendu ethnic groups that began in 1999 was exacerbated by Ugandan military forces and aggravated by a broader international armed conflict in the DRC. As the conflict spiraled and armed groups multiplied, more than 60,000 civilians were slaughtered in Ituri, according to the United Nations. In addition to abuses committed by the UPC, serious human rights violations were committed by other groups, including the Nationalist and Integrationist Front (FNI), a Lendu militia led by Floribert Njabu.

Because the ICC will only prosecute those bearing the greatest responsibility for war crimes, crimes against humanity, and genocide committed after July 2002, it will likely prosecute only a few high-ranking perpetrators. Human Rights Watch called on the authorities in the DRC to conduct meaningful national prosecutions to supplement the ICC's investigation, and urged the international community to support Kinshasa in these efforts.

"Forcing young children to participate in warfare is a serious crime, but the ICC prosecutor must also press additional charges against militia leaders for massacres, torture and rape," said Dicker. "It is vital that Thomas Lubanga, Floribert Njabu and others who committed crimes in this deadly conflict be held responsible and brought to justice. The ICC must send a strong signal that these crimes will be punished."

Source: Human Rights Watch.

The Ituri conflict, as well as others in eastern DRC, highlights the

FOR YOU information

International Day of Elimination of Racial Discrimination

BARRISTER HARUN UR RASHID

MARCH 21st was the International Day of the Elimination of Racial Discrimination and all UN member-states were to observe this Day as one of their commitments in process of the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, 1965 (commonly known as CERD). The General Assembly adopted the Convention by its resolution 2106 A (XX) of 21 December, 1965.

What is racial discrimination?

Racial discrimination means simply discrimination on the grounds of race. Race means a group of people of common ancestry, distinguished from others by physical characteristics such as hair type, colour of skin, and eyes, and stature. Anthropologists say there are main three races in the world: (a) Caucasoid, (b) Mongoloid and (c) Negroid.

The 1965 International Convention for All Forms of Racial Discrimination defines racial discrimination as follows:

"In this Convention, the term 'racial discrimination' shall mean any distinction, exclusion, restriction, or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

Some experts say that racial

discrimination is in essence an attitudinal discrimination in the mind of a person, harbouring racial prejudice towards a person of another race. No country can avoid racist attitude and racial discrimination exists in some form or another in all countries.

At a philosophical level, there are two conceptions of racial discrimination. According to the first of these, no distinction could be drawn between the forms and the manifestations of racial discrimination, all of which could be traced back to historical movements. The causes of racial discrimination which were not distinguished from its forms, were thought to lie in the structure of the society.

According to the second conception, racial discrimination presents a complex problem to be handled in the same way as other social problems with which governments are confronted. They want their definition to grasp the single underlying cause of discrimination that produces the observable kinds of behaviour. This cause may have psychological, socio-economic and ideological components.

Racial discrimination took the worst form in Apartheid South Africa before 1990 (Nelson Mandela was released on 27 February, 1990). Since 1940s, South African racist governments adopted laws discriminating blacks from whites. The blacks could not live together with the whites. Various laws prescribed use of public amenities available to different race groups and prohibited inter-racial marriage.

UN action

The preamble of the UN Charter states among others:



"to reaffirm faith in 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, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained."

The main source of authority for international action against all forms of discrimination is to be found in the Charter, which declares in Article 55 that the UN shall promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion". In Article 56, member-states pledge themselves to take joint and separate action for the achievement of those purposes.

Since 1948, the UN has been promoting and codifying human rights, with a common standard of achievement for all people and nations. Over a period of time, the concept of human rights has continuously expanded, from first-generation notion of political and civil rights to a range of economic, social, and cultural rights, rights to development and right of indigenous people.

One of the important guiding concerns of this human right relates to the "principle of non-discrimination." The Universal Declaration of Human Rights (1948) and other human rights instruments specifically refer to this principle.

The 1965 UN Convention is a major achievement, the greater because it was adopted on a unanimous vote.

The Convention consists of three parts. Part I specifies the substantive obligations of state parties. In Article "racial discrimination" is defined. This part also includes a list of steps what states parties have to do to eliminate racial discrimination. Part II lays down provisions for international scrutiny and review of the way states fulfil their obligations. Part III governs such matters such

as ratification, settlement of disputes and revision.

The 1965 Convention transformed the political scene in South Africa. The Convention makes it loud and clear that there is no room for racial discrimination between persons who differ in respect of race. Racial discrimination is contrary to international law.

Furthermore the UNESCO's Declaration in 1978 on Race and Racial Prejudice declares among others that:

"All human beings belong to a single species... all individuals and groups have the right to be different... any theory which involves the claim that racial or ethnic groups are inherently superior... has no scientific foundation and is contrary to the moral and ethical principles of humanity... any form of racial discrimination practised by a State constitutes a violation of international law."

Conclusion

All forms of racial discrimination have been prohibited by all UN human rights instruments. All international human rights instruments require states to adopt domestic laws to provide adequate remedy for those whose rights have been violated. It is only when states' own internal protective systems falter or where, in extreme cases, they are non-existent, that international mechanisms operate to reinforce domestic protection of human rights and to provide redress when the domestic system fails or is found wanting.

The author is former Bangladesh ambassador to the UN, Geneva.

LAW week



Niko flouting rules with govt turning a blind eye

Canadian company Niko continues to flout unhindered all rules and regulations in each of its steps in keeping with its backdoor entry into the country's energy sector in 2003 using influence of an 'alternative centre of power' of the government. Energy ministry sources said other than the recent black-mailing tactics to force the government to fix gas price by stopping gas supply from the Feni field, Niko has been involved in illegal land grabbing, purchase and even 'donation', illegal installation of gas pipeline and spending of millions of dollars without due approval. Niko's undue influence made a number of government organisations commit gross irregularities. "Niko is corrupting the government mechanism," said a highly placed source. Though the government is aware of Niko's continued foul play, it has never taken any step to punish it, thanks to the influence of the 'alternative centre of power'. The energy ministry adviser made the only exception last week when he threatened Niko with legal action if it does not resume gas extraction and supply from the Feni field, stopped in late February. The threat led Niko to reluctantly resume Feni field's operation, supplying 29 mmcmd (million cubic feet per day) of gas. Meanwhile, there had been genuine disputes with other foreign oil companies working under different production sharing contracts (PSCs) but none of them has ever been accused of blatantly violating rules or corrupting government offices, an official pointed out. -The Daily Star, March 18.

Aug 17 Blasts Govt asked to produce Rahman, Bangla Bhai in Bogra court

Additional District and Sessions Judge's Court asked the government to produce captured JMB leaders Abdur Rahman and Siddiqui Islam alias Bangla Bhai before it on June 5 in connection with the August 17 bomb blasts case filed in the district. Militants exploded seven bombs in the district on August 17 as part of their serial bombings across the country. Other accused in the case are Waliullah, Gulam Kibria, Mamun-ur-Rashid and Abdur Razzak alias Hasan. Of them, Hasan is in custody while others are still at large. -UNB, Bogra, March 20.

Hearing on first sedition charge begins

The hearing of the first sedition case against eight Jama'atul Mujahideen Bangladesh (JMB) leaders and activists of Dhamrai area was held at a Dhaka court. After the hearing, Judge Mohammad Rafiqul Islam of the District and Sessions Judge's Court fixed April 5 for hearing on charge framing against the accused and transferred the case to the Additional District Judge and Bankruptcy Court for its trial. The eight accused JMB operatives are Mohammad Rafiqul Islam alias Sentu, 22, Mohammad Wahab, 26, Yaqub Ali, 21, Anwar Hossain, 23, Faruq Hossain alias Kosai Faruq, 25, Mohammad Wahiduzzaman alias Pintu, 20, Abdus Salam, 22, and Nurul Islam, 23. Of them, Sentu is now in custody while the others are still at large. Investigation Officer of the sedition case filed with Dhamrai Police Station Sub-Inspector Iqbal Hossain on December 27 last year submitted the charge sheet of the case against them to a first class magistrate's court in the city, showing 25 people as prosecution witnesses. -The Daily Star, March 20.

Participation of all parties needed for acceptable polls, Says Chammas

Participation of all political parties in the upcoming general elections is needed for acceptable polls, US Chargé d'Affaires in Dhaka Judith A Chammas said. "I hope all political parties will exercise their democratic responsibilities and rights in the general election," Chammas said. She was speaking at a meeting organised by the Federation of Bangladesh Chambers of Commerce and Industry (FBCCI) at its conference room. Terming the general election a 'critical' one and forecasting that the polls will be observed widely and carefully, she also urged the people of Bangladesh as well as the participants to accept the election results. She said it is encouraging that the main opposition has put on its reform proposals in parliament and the prime minister has offered a committee to discuss the issue. "All these are good signs in a democracy." Replying to a query raised by a businessman on militancy, Chammas said the government has made a good step by arresting the militant leaders. However, the government should continue its investigation to find out the financiers, organisers and those who patronise them, and bring them to justice, she added. -The Daily Star, March 20.

Rahman himself led raid to kill AL leader

Jama'atul Mujahideen Bangladesh (JMB) supreme Abdur Rahman has admitted that he himself led a failed operation to kill an Awami League leader in Mollahat in Bagerhat in August 2002. Rahman on March 19 told interrogators a 13-member JMB team, which also included Bangla Bhai, chased AL leader Tarapoda Poddar of Gaola village but could not have him due to locals' resistance. As the AL leader managed to escape, the attackers took shelter at the house of a JMB activist. Police had arrested six militants including Bangla Bhai, but Rahman evaded arrest, the JMB chief told the interrogators. The militant kingpin also said 20 JMB cadres in Bagerhat are looking for an opportunity to launch bomb attacks on some specific targets. Meantime, the sedition case filed against JMB's seven Majlis-e-Shura members on March 13 was transferred yesterday to the Criminal Investigation Department (CID) of police. -The Daily Star, March 21.

Bangla Bhai's victims want govt's apology

Over 50 family members of the victims of Bangla Bhai atrocities called on the government to apologise for the 'state-sponsored jungle rule' in the north-west of the country. The locals of Puthia, Durgapur, Bagmara of Rajshahi, Atrai, Rainingar of Naogaon and Naldanga of Natore at a public rally in Shaheb Bazar also demanded compensation for losses of lives and properties suffered at the hands of Jagrata Muslim Janata, Bangladesh (JMB) operatives. Writer-journalist Shahriar Kabir was the chief guest at the meeting organised by Ekatturer Ghatak Dalal Nirmul Committee. Language Movement veteran Abul Hossain chaired the meeting addressed among others by Workers Party politburo member Fazle Hossain Badsha, city Awami League (AL) General Secretary AHM Khairuzzaman Liton, Professionals Alliance Council President Dr Sayed Shafiqul Alam and Nirmul Committee leader Quamruzzaman. Statements of some victims and witnesses were recorded on video in Miapara Library premises. Taking part in the meeting, the locals alleged a section of the police and district administration aided and abetted Bangla Bhai in various acts of violence against the villagers. They had overlooked repeated complaints by the victims and their families. -The Daily Star, March 21.

Addl Attorney Gen Rezaque wants to quit

Additional Attorney General Abdur Rezaque Khan sought 'release' from his office following a newspaper report on his continuing in the job despite reaching retirement age. "I've sent a letter to the law secretary through the attorney general for releasing me from my office as the newspaper has raised the question regarding my age," Rezaque Khan told The Daily Star, adding he is now 68 plus. Although the retirement age for a judge of the Supreme Court is 67, it is not clear whether it would be applicable too for an advocate getting appointment as a government attorney. Article 64 of the Constitution says the President shall appoint a person who is qualified to be appointed as a judge of the Supreme Court to be Attorney-General for Bangladesh and shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine. Nothing has been said in the Constitution about the retirement age or about the additional attorney generals. Rezaque Khan told this correspondent that he has brought attention of the law ministry to the matter and would continue in his duty until government response. -The Daily Star, March 21.

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LAW news



IPR is key to economic progress

Countries that protect intellectual property rights (IPR) in today's world are better situated to support creativity and benefit economically, says Thomas G. Field Jr., law professor and IPR expert at the Franklin Pierce Law Center, New Hampshire. In a webchat March 17, Field said: "As the world shrinks, countries increasingly need to decide whether they want to limit themselves to low-margin raw materials or to share in markets for high-margin finished goods. If the latter, they need to create a legal infrastructure [for IPR] to support the needed intellectual infrastructure."

As an example of the value of IPR to an economy, Field discussed the creation and manufacture of clothing, which he said is perceived as "more useful" than raw cotton. According to Field, patent protection -- one of the leading forms of IPR -- encourages creative individuals to devise improved equipment and processes "to make production and distribution cheaper."

"That, in turn, makes finished clothes available to more people at lower cost." Countries that export these cheaper, better-quality finished goods usually outpace those that export just raw materials, such as cotton, Field said.

Field said that IPR itself has changed as new production means are developed. "Copyright had little use before the creation of the printing press," he said. But he said as technology for distributing information has changed, the law has adapted to meet new challenges. "The worldwide web," he added, "has resulted in a need to protect domain names lest consumers be defrauded by people pretending to be someone they are not."

The goal of IPR -- "to encourage the creation of new goods and services to make people's lives more pleasant in all respects" -- has remained constant throughout changes and innovations, Field said. Asked whether the folk traditions of a country can be protected under copyright, Field saw problems with protecting traditional works. First, copyrights expire at some point -- usually a certain number of years after the death of the author or artist, he said. According to Field, that raises a second issue: Who was the author? Was there one or many who added bits and pieces over a long time? "And, of course," he concluded, "part of the last issue is who owns or can enforce the copyright? A village, a tribe or some other identifiable group?"

Source: American Information Center.

FACTfile



Victim of acid cries for justice

CHANDANA Rani Mandol (32) a housewife sustained severe burn injuries when miscreants threw acid on her at Outshahi village in Tongibari Upazila of Munshiganj district on 11 February midnight. A gang of miscreants thrown acid on her back while she was going to toilet in the midnight of 11 February 2006. She was rushed to Munshiganj hospital with severe acid burn and subsequently was shifted to Acid Survivors Foundation (ASF), Dhaka for better treatment.

Family sources informed Odhikar, that the miscreants threw acid at Chandana Rani Mandol when she came out of her room to go to the toilet. A case was filed with Tongibari police station under Acid Control Act. Chandana Rani Mandol herself became the informant of the case.

Meanwhile police arrested Monir Hossain's wife and Monir Hossain's brother from the same village on charge of their alleged involvement in the acid attack. The victim is now undergoing treatment at the Acid Survivors Foundation, Dhaka. Her condition is improving. Victim Chandana Rani has demanded that the persons responsible for the attack should be brought to justice. The prime accused persons are still at large. When contacted the Investigating Officer (IO) of the case Sub-Inspector (SI) Lutfar Rahman of Tongibari police station, he informed Odhikar that the case is under investigation and they are trying hard to arrest the alleged perpetrators who are absconding since the incident.

Chandana Rani informed Odhikar that they had dispute with their neighbours Monir Hossain Sheikh, Amir Hossain and Harun Mollik over a piece of land. They have been threatening her to resolve this dispute in their favour for last four years. On 11 February at around 4.00 pm a quarrel took place with Monir Hossain's wife and his brother regarding other ongoing civil suits filed against each other. Chandana Rani informed, as she has been pursuing the cases of their side, the perpetrators attacked her to stop her from such persuasions. Chandana's husband Dilip Kumar Mandol is a vegetable trader in Dhaka. They used to visit their village home occasionally.

She also mentioned, two years ago, her father-in-law Ramesh Kumar Mandol filed a case against Monir Hossain and Amir Hossain who were trying to occupy the land where his family and relatives living. Since then the culprits have been pressurising them to withdraw the case. The parties filed four cases so far over the land dispute. Out of these four cases three are pending in Munshiganj District Judge's Court and one is pending in the High Court Division of the Supreme Court.

Chandana's husband Dilip Kumar Mandol informed Odhikar that this is their ancestral land and they have been staying there for more than 80 years. Out of 0.93 acres of total land 0.37 acres are their own property (ancestral) and 0.56 acres are possessed through lease. Lessee Ramesh Mandol have been paying lease money to the land office accordingly.

However, victim's father-in-law Ramesh Mandol was abducted on 3 October 2000 by the gang of Monir Hossain Sheikh and the accused persons had forcefully taken signatures and thumb impression from him on a stamp paper. Ramesh

Chandana Rani Mandol and her family are deeply concerned about the progress of investigation of the case. The main accused persons are yet to be arrested and the police are allegedly not taking much interest about it.



Human rights defenders built a human chain on 15 March 2006 at Munshiganj to protest against the acid attack on Chandana Rani Mandol.

Mandol lodged a general dairy (GD) with local police station in this connection. Later Monir Hossain claimed that he acquired 0.56 acres of leased property through a deed. Although the Court did not accept the deed on the ground that leased out property cannot be sold, purchased or transferred.

Odhikar demands immediate arrest of all the accused persons and a fair trial.

A fact-finding report of Odhikar.

Meanwhile acid victim