

Racial Discrimination in Australia
UN Takes Serious View on
Complaints by Aborigines

by Barrister Harun ur Rashid

The UN will question the very laws upon which discriminatory treatment is being meted out to individuals of another race or religion or gender in the country. The individuals have a right to invoke the UN machinery to focus its attention to the abuse of human rights.

title in legal instruments was clear. This was a landmark decision of the High Court of Australia...

A new era of the rights of the Aboriginal community on lands commenced. The liberal and enlightened community in Australia...

What is Native Title? The High Court recognised that native title was a concept representing a collective right vested in the Aboriginal people...

As the native title is to be determined by reference to the laws and customs of indigenous people, it will vary among indigenous peoples...

The Court further said that the content of the title to the lands was to be determined by the character of the traditional connection or occupation of the Aboriginal community...

From this it follows that native title does not depend on recognition by the Government or its legislature. It exists independently of any specific recognition...

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The Labour Government of Paul Keating (1993-96) implemented the decision of Mabo in a legislation, called the Native Title Act which was passed in 1993...

The Native Title Act of 1993 sought to give the native title holders the same protection and security enjoyed by the freehold title. In some ways native title, at common law, is wider than the ownership of a freehold estate...

Post 1993 developments: After the enactment of the Native Title Act, a case arose before the High Court whether a pastoral lease would extinguish the native title rights...

The Court decided that whether a pastoral lease extinguished native title would have to be looked at in the context of each pastoral lease. The pastoral leases are of extraordinary varieties in their contents...

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widely misunderstood or misrepresented by the farmers. The decision was criticised by them and even the conservative politicians joined the fray...

The changes in the Native Title Act have been perceived by the indigenous people, constituting less than 2 per cent of the 18 million population of Australia...

The Committee expressed its appreciation for the assistance and co-operation it has received from the Australian Government. The question before the UN is whether the amendments to the Native Title Act...

It is to be noted that apart from the submissions by the Aboriginal leaders, the Amnesty International has lodged a submission with the UN Committee criticising Australia...

The writer is former Bangladesh Ambassador to the UN in Europe, Geneva.

relating to primary production, (d) higher and strict tests for registration of native title rights and (e) the removal of the right to negotiate in some circumstances...

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titles of the UN Convention on Elimination of Racial Discrimination.

The appearance of Australia before the UN Committee implies that it has a case to answer. The very fact that a domestic matter has become a subject of concern at an international level does not bring credit to the conservative coalition government...

There are also questions about why the Government took 14 months to appoint a new Aboriginal Social Justice Commissioner after the position fell vacant due to resignation by the former Commissioner...

All these factors seem to have impacted Australia negatively and it has to defend before the Committee its alleged discriminatory policy towards its indigenous people.

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When Cabral first arrived in Brazil on April 23, 1500, he reported that there were more than five million Indians belonging to 970 tribes dispersed all over Brazil...

According to the Constitution, all disputed Indian land should have been demarcated by 1993 and the non-Indian should convince its leaders in politics and business that wish is no substitute for work...

Plans to Celebrate 500 Years of Brazil's 'Discovery' Anger Indians

Beauty Lupiya writes from Boa Vista, Brazil

EVERYDAY, huge roadside digital clocks in the cities of Brazil remind people that a major celebration is afoot. There are 438 days to go for the anniversary of 500 years since Brazil's 'discovery'...

But not everyone is convinced of the need to celebrate - least of all those who belong to Brazil's many indigenous communities, or Indians. They say their condition has only worsened since the day Brazil was 'discovered' by Portuguese explorer, Pedro Alvares Cabral...

There is absolutely nothing to celebrate, Jeronimo Pereira da Silva, a member of the Makuxi tribe in the Amazon jungle, told Panos Features. Pereira da Silva belongs to an Indian organisation called Comissao Indigena 500 Anos...

Indians all over Brazil have denounced the plans, pointing out that millions of their people have been killed since the day Cabral set foot in Brazil. In a recent protest, the northeastern tribe of Pataxo Indians has threatened to invade a region called Coroa Vermelha in Santa Cruz de Cabralia...

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landlords compensated financially. However, of 556 Indian areas in the country, 201 are yet to be demarcated - 176 in the Amazon area.

Demarcation is only on paper because these are no money to compensate land owners. There are still many invaders in these areas. It is not an easy process to demarcate Indian land...

Blos says since 1988 there have been 32 land conflicts between Indians and Whites in just one Indian territory - Sao Marcos near the Venezuelan border. He says these have occurred in spite of the fact that FUNAI has spent three million reais (US \$1.71 million) to compensate 70 farmers who had settled in the area.

To stop conflicts in Roraima, Blos said, the Government has spent 10 million reais (US \$5.7m) which will solve all the problems. Indians want human dignity. They have no choice but to recover their lost land - yet invaders will not give it up without compensation.

Nationwide, there have been innumerable conflicts involving Indians in recent years. In 1992 a leader of the Yanomani Indians was killed by gold prospectors in Roraima near the Brazilian and Venezuelan border. In 1993 gold prospectors invaded Yanomani land, killing 16 Yanomani.

In the capital city of Brasilia, another Indian group called CAPOIAB have announced their own parallel event to mark the 500-year anniversary - a march through Santa Cruz da Cabralia by some 2,000 Indians.

CAPOIAB says that in addition to their "systematic genocide," Indians also suffer from raging ill-health and the absence of school education.

Indian groups point out that more than half of all Brazilian Indians depend on the government for food handouts under a programme which began two years ago. At the start of it, 37,350 Indians depended on government food. Just two years on the number has jumped to 173,626.

But in the Amazonia and Roraima states, where villages are in remote areas, the government has found it too expensive to distribute food. Here, Indians make a living by hunting, fishing and selling Indian artifacts to tourists visiting nearby national parks.

Meanwhile, the government insists its plans to celebrate the 500-year anniversary will go ahead. At least five Internet sites have been launched to promote the event and a special commission has been formed to scout for ideas.

So far it has approved 150 projects, including art exhibitions, book launches, film and video shows, and boat trips around Santa Cruz de Cabralia.

Second D-8 Summit: An Approach for Equitable Trade and Investment

by A B M S Zahur

As the only LDC in the group Bangladesh should be aware of varying levels of development of the member countries. Relatively less developed countries are often unable to partake adequately in the envisaged balanced development and equitable distribution of benefits. Special regimes will be necessary to take care of her needs and concerns.

duction of agriculture aircraft prototype, industrial and technological data bank network, rural industrialisation, poverty alleviation and human resource development. While Bangladesh emphasises on economic emancipation of their peoples, Turkey stressed on increasing the volume of trade, Pakistan considers development of infrastructure industry and agriculture, participation of private sector in development as important, Iran stresses on cooperation in economic and commercial areas. Nigeria recommended for free trade among D-8 countries.

Certainly these states are disparate in many respects. There may be varying levels of development of the member countries and geographically they may be dispersed. With adequate political commitments to continuity in policies and administrative arrangements it may be possible to develop a broadly similar approach to some of the basic issues which investment and technology. Such issues range from definition of foreign investment, valuation and capitalisation of foreign contribution, remittance of profits and repatriation of capital, expansion and diversification of activities by enterprises with substantial foreign investment, access to domestic financial resources, performance requirements, ownership, management and control, duration of arrangements and the like to investment guarantees, dispute settlement mechanisms and the basic framework for authorising foreign investment.

The scope for harmonising approaches is better in technology acquisition agreements. At the initial stage areas considered may be (a) the types of technology agreements to be screened, (b) the broad parameters for agreements and payments for patents, trade marks, technical know-how, technical

assistance etc., and (c) the kind of restrictive business practices to be avoided unless there are exceptional reasons. More complex issues, such as obligations to promote domestic research and development, sourcing of domestic design and engineering services and the like are linked to domestic technological capabilities and may not, therefore, be amenable to a similar approach in the earlier stages.

Cooperation in the field of technology could be explored in a joint acquisition of technology and know-how for use in these countries through a process of collective bargaining with technology suppliers. There are complex process which requires central coordination and planning among the recipient countries. There may be scope for acquisition of foreign technology and know-how on a collective basis for more than one project. Apart from lowering technology acquisition costs and improving the contractual terms, this will enable pooling of expertise and information for a detailed evaluation and comparison of technological alternatives and sources in a number of these cases.

Like other developing countries investment incentives occupy a prominent position in the policies and efforts of these countries to stimulate both domestic and foreign investment. Harmonisation of investment incentives on a regional basis is an exceedingly difficult and complex task because (a) the incentive regime of each country is unique to its own circumstances and conditions and (b) the incentives are equally important for stimulating domestic investment.

It appears to be desirable to pursue regional cooperation and consultation for harmonisation of accounting and reporting standards in the long-term objective. Such cooperation, however, has to take place

within the international context. Regular exchange of information, experience and expertise among these countries would greatly strengthen the bargaining power of individual countries. Such exchanges can take place at various levels. A wide array of mechanisms is possible for pooling and sharing knowledge and experience. In exchanging information it is desirable to maintain confidentiality as far as possible.

To promote cooperation in industrial development the following interrelated techniques may be considered: (i) selective trade liberalisation; (ii) a system of complementarity agreements involving perpetuation of specialisation schemes for the manufacture of different products within an industry or in related industries, in each of the countries and their subsequent exchange. Private entrepreneurs should be encouraged to prepare these schemes; and (iii) a system of package deal agreements to be negotiated by the governments of D-8 on the establishment of basic large-scale industrial projects.

It may be premature to foretell about the success of this multilateral cooperation at this stage. It is, however, clear that the D-8 have less obstacle compared to SAARC. The grand vision of the founding fathers of SAARC remains just a vision. The member states of SAARC have not been able to show political pragmatism or sagacity. Some of its members have failed to realise that regional integration is for advancing the socio-economic progress and peace and not a game of political or militarymanship between rivals. As all the members of D-8 are members of OIC there is already some interaction among them. All these are Islamic States with similarity in culture. More or less good bilateral relationship exist

among these countries. However, mere summit meetings or ritual meetings will not help this club to grow. A close study of the evolution of European union during the last 42 years should convince its leaders in politics and business that wish is no substitute for work. As such lot of work is to be done for its development and growth. As the only LDC in the group Bangladesh should be aware of varying levels of development of the member countries. Relatively less developed countries are often unable to partake adequately in the envisaged balanced development and equitable distribution of benefits. Special regimes will be necessary to take care of her needs and concerns. Any success of D-8 may be helpful in the growth and development of OIC to make it more effective.

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Watching the Intellectuals

by A Husnain

AS early as in the mid-1960s, the term 'intellectual' had been suspect, according to Prof Lewis A Coser, the American sociologist, who studied the modern intellectuals' relation to politics in his stimulating book 'Men of Ideas' (1965). Earlier, HW Fowler was sarcastic enough to suggest there is an intellectual in every mirror. Today intellectualism is certainly not obsolete in the first, second, third and the fourth worlds. The debate continues, while the intellectuals flourish; although some prefer to be referred to as 'intelligent'.

Can the intellectuals rise above their culture? What is anthropic intellectualism? Are the intellectuals the antennae of the race? Are they the sparking minds who apply culture? What is the difference between intelligent persons and intellectuals? The latter are simply being detached and fond of looking at the core values. Beyond the immediate answers and wants, and seek higher and wider truths. They go beyond customs and usage. They are the store houses turning the abstract into practical ideas. But the houses of power had ignored them initially, and they bask in reflected glory of the moon, away from the period of sun spots, their presence is patronized without imposition on either side.

There are men who live off politics and others who live for

politics (Max Weber). Were the former court jesters, as embalmers in the tissues of history, the forefathers of the present intellectuals? There is reason for such connection: the court jesters enjoyed the exemption from the proprieties enforced on formalities of technical processing of ideas in the social hierarchy.

This special breed of thinkers (the intellectuals) can claim the privilege of pursuing idle curiosity (more elbow room for interaction of ideas) without the means to an end. According to Mannheim, they transform the conflicts of interest into conflict of ideas. The intellectuals are the gatekeepers of ideas with the privilege to think otherwise. There is not greater freedom than the timeless task of defining freedom, generation after generation!

Ordinary minds find the communication gap with the intellectuals unnerving. This distancing creates an artificial halo, behind which creativity could assume the role of play, in a different world of dispersing with the watchful chore of time-keeping. Thus culture is kept alive with digital pulses from scintillating Milky Ways on Earth.

There exists also the 'world of nonliterature culture; in earlier times it was akin to philo-sophy. What is the difference between the ancient Greek thinkers and our modern intellectuals? Is it a difference of degree or kind; or only the environment has

changed, and the process has speeded up? (the modern Greenhouse Effect has also its intellectual side). Anyway the modern intellectuals are a mere three centuries old (the same age as that of 'modern history'). The Renaissance brought in the church, followed by the offshoot now known as secularism; and since then the political systems had to face competition from sharp and brilliant individual minds, ending the feudal hold on the social scene. Later, the information age thawed the frozen local culture; and the market changed to competing patrons of the intellectuals (evident in Bangladesh today).

Perhaps the sociology of intellectualism could never be written as it would take a lifetime of effort. What are the institutional settings suitable for the cultivation of an intellectual life? Unlike the richness of the depth and breadth enjoyed by the historians, the sociologists' probes and treatment are rather limited in scope and thrust, according to Coser.

In developed societies (far from the poverty line), the intellectuals much more elbow room for lingering on demonstrations of mental aerobics (the development of culture is a spare time activity when the mind is free of the basic needs of daily life). In the underdeveloped and emerging nations, the problem is to maintain an

empathic two-way communication channel with a traditional society, low on literacy and high on conservatism, with political leadership groping in myopic perspectives - the reliance on the past, and the morbid occupation with the present. The survival instinct is strong in an environment lacking security. Add to it another disturbing variable, the rapid rate of social change generated by the information age during the closing decades of the past century. Another factor is the political instability (as in Bangladesh), which is not conducive to the rooting of ideas and trends. The generation gap has now reduced to a decade, compared to 25 years during the past mid-century. The well informed minds are existed, and the closed minds (the majority) lack the resilience to face new issues.

Anyway, it appears that, in view of the powerful hold of the Bangladesh intellectuals on the governance of the country, the students of sociology would welcome more studies on the development and sense of direction of the Bengalee intellectuals, as observed since the Moghul period. Later the British Raj produced a flux in approach and thinking, extended over a resetting period of 200 years. Such understanding is necessary today for the stability of the society and to ensure a glorious future for Sonar Bangla.

