

LAW

campaign



LAW

news



Advocating for the ratification of the International Criminal Court Statute

A.H. MONJURUL KABIR

THE struggle for international justice has taken a major stride forward. More than sixty countries have now ratified the Rome Statute, triggering the establishment of the International Criminal Court. The Rome Statute will now enter into force on 1 July 2002 and it is expected that the Court will be operational in the first half of 2003.

At the end of the bloodiest century in human history, the international community adopted a treaty creating the world's first independent and permanent International Criminal Court. That court is now becoming reality.



A partial view of Nuremberg trial- beginning of the movement for establishing global criminal justice system

The International Criminal Court (ICC) will be able to investigate and prosecute those individuals accused of crimes against humanity, genocide, and crimes of war. The court will also have the authority to prosecute the crime of aggression, which is yet to be defined in the statute. The ICC will complement existing national judicial systems and step in only if national courts are unwilling or unable to investigate or prosecute such crimes. The ICC will also help defend the rights of those, such as women and children, who have often

had little recourse to justice.

Global ratification status

The Statute outlining the creation of the court was adopted at an international conference in Rome on July 17, 1998. After 5 weeks of intense negotiations, 120 countries voted to adopt the treaty. Only seven countries voted against it (including China, Israel, Iraq, and the United States) and 21 abstained. Before the Court can be set up, 60 countries need to ratify the treaty. 139 states signed the treaty by the 31 December 2000 deadline. As of May 15, 2002, 67 countries have ratified it. The tribunal will come into force on July 1, 2002.

Depressing Asian situation

In Asia, ten countries have, so far, signed the ICC Statute out of which only three countries have ratified the same. Regrettably, none of the South Asian countries, with the sole exception of Bangladesh, has signed the treaty. Bangladesh signed the treaty on 16 September 1999. Against the backdrop, Asian Network for the International Criminal Court (ANICC) and the NGO Coalition for the International Criminal Court (CICC) invited a delegation team comprising a number of human rights and peace activists, international human rights lawyers and academicians to visit Bangladesh. The visit took place during 16-18 May 2002. The delegation met civil society groups and discussed the status of ICC campaign in the region and Bangladesh. They also met the government officials and shared their experience of the ICC campaign around the world. The visiting lobby team called on the Government of Bangladesh to strengthen the rule of law around the world by ratifying the Rome Statute of the International Criminal Court as soon as possible and enacting effective implementing legislation. The team in a discussion programme held on 17 May 2002 at Muktijuddho Jadughar, Dhaka attempted to explain some of the pertinent issues relating to ratification of the International Criminal Court Statute. Dr. Ahmed Ziauddin, a Brussels based pro-active jurist and lawyer co-ordinated the visit.

Facts file on International Criminal Court

The International Criminal Court will be of particular importance because: it will serve as a permanent deterrent to people considering these crimes. The Court will prosecute individuals - not states. The court will consist of eighteen elected judges and an elected prosecutor, who will lead investigations and try cases. Only those states who have ratified the treaty will be able to nominate and elect judges and prosecutors.

The International Criminal Court will be based in the Hague, the Netherlands. The ICC will have jurisdiction over crimes committed in the territories of ratifying states and over crimes committed anywhere by nationals of ratifying states. States that do not ratify the treaty can choose to accept the court's jurisdiction in particular cases. These states, and all states parties, must co-operate with the court's investigations and prosecutions.

There are three ways that cases can be brought to the International Criminal Court. Both a state that has joined the treaty and the Security Council of the United Nations can refer a situation to the court for investigation. In addition, the ICC prosecutor can start an investigation based on information that she or he receives from victims, non-governmental organizations, or any other reliable source. The ICC will rely on state co-operation

in its investigation and prosecution of cases. The ICC will not have its own police force and will work side by side with national authorities.

In most cases in the last fifty years international mechanisms to prosecute people accused of these crimes have only been set up after the crimes have occurred; it will have a much wider jurisdiction than the International Criminal Tribunals for the former Yugoslavia and Rwanda, the tribunals have been limited to crimes committed in a particular territory while crimes committed in other territories have not been addressed; and the Statute contains the most advanced provisions for the protection of victims from retraumatization as well as provision on the Court's order for a convicted person to provide redress, in the form of compensation, restitution, rehabilitation, satisfaction, guarantees of non-repetition, and any other type of reparation the Court deems appropriate.

Law Desk urges...

Since 1998, the *Law and Our Rights* section of the Daily Star has been orchestrating media campaign through its weekly publication. In 2001, Law Desk joined the campaign with its dedicated weblink for the early establish-

The Law Desk strongly urges the Government of Bangladesh to ratify the ICC Treaty and to be the first country in South Asia to do so. For Bangladesh, which experienced a gruesome genocide in 1971, the ratification of the ICC Treaty would be a genuine, practical initiative and ethical contribution as well, towards establishing a global criminal justice system. In fact, the ICC will be the first standing court of its kind, a unique and important development in the history of human rights protection and international justice. Bangladesh must be a party to this critical process.

ment of the International Criminal Court. The Law Desk strongly urges the Government of Bangladesh to ratify the ICC Treaty and to be the first country in South Asia to do so. For Bangladesh, which experienced a gruesome genocide in 1971, the ratification of the ICC Treaty would be a genuine, practical initiative and ethical contribution as well, towards establishing a global criminal justice system. In fact, the ICC will be the first standing court of its kind, a unique and important development in the history of human rights protection and international justice. Bangladesh must be a party to this critical process. The Law Desk has already teamed up with *Law Watch*, a centre for studies on human rights law, and will provide latest information and critical analysis on global criminal justice mechanism round the year. We are also interested to work with civil society organisations having adequate mandate in building a concerted movement for early ratification of the International Criminal Court. We cordially invite you to join the initiative.

LAW

vision



Emerging models for human rights education

FELISA TIBBITTS

Felisa Tibbitts looks at how we can enhance the effectiveness of human rights education (HRE). She presents three operating models for human rights education: the Values and Awareness Model, Accountability Model and Transformational Model. Each of these models is analyzed according to their target groups, goals for learners and intended contribution to social change. Ms. Tibbitts concludes by outlining ways in which the field can be further developed, professionalized and recognized. Human rights education in Bangladesh is in its infancy. Law Desk is proud to be associated with her thoughts and strategic planning and believes those would be valuable for developing a Bangladeshi vision of human rights education. We invite concerned faculty members to send their comments/thoughts/responses on Felisa's model(s) of human rights education.

OVER the last 12 years, the term "human rights education" (HRE) has slipped into the language of ministries of education, educational nonprofits, human rights organizations and teachers'not to mention intergovernmental agencies such as the United Nations and regional agencies such as the Council of Europe, the Organization for Security and Cooperation in Europe (OSCE), the Organization of American States (OAS) and the Association of Southeast Asian Nations (ASEAN).

Nancy Flowers, in The Human Rights Education Handbook, defines HRE as "all learning that develops the knowledge, skills and values of human rights." Human rights education involves the learner's valuing and understanding of these principles, which are typically "problemized" for that particular society. At the national levels we can observe quite different approaches to the use of HRE in addressing widespread human rights and development challenges. In developing countries, for instance, HRE is often linked with economic and community development, and women's rights. In post-totalitarian or authoritarian countries, human rights education is commonly associated with the development of civil society and the infrastructures related to the rule of law and protection of individual and minority rights. In older democracies, it is often conjoined favorably with the national power structure but geared towards reform in specific areas, such as penal reform, economic rights and refugee issues. Human rights education also seems to be playing a specialized role in post-conflict societies.

These examples focus on human rights problems and issues at the community level. Human rights education involves a combination of looking within and looking without. Human rights learning is necessarily focused on the individualthe knowledge, values and skills that pertain to the application of the human rights value system in interpersonal relationships with family and community members. Nancy Flowers and others talk about some of these "human development" skills that recognize one's own biases, accept differences, take responsibility for defending the rights of others, as well as mediation and conflict resolution in The Human Rights Education Handbook. Yet those organizing human rights education programming must take into account the social, cultural, political and economic contexts for their work, and the potential such education will have for social transformation.

In fact, education has a complex and demanding role to play in upholding human rights, supporting human development and promoting civil society. In order for human rights education and human rights thinkingto be a lasting contribution to human rights cultures in our respective countries, we need to truly understand the distinct models of human rights education that are found in practice, and to clarify their link with social change strategies. The focus of this article originates from the current proliferation of human rights education programming and the sense that educators and advocates of human rightsthose leading training sessions, developing materials and designing programsould benefit by revisiting the question of how education and training strategies can contribute to social transformation. HRE is ultimately about action for building human rights cultures in our own communities, and programming must be evaluated on its ability to contribute to this general goal.

Human rights education and advocacy

Because most societies struggle to better embody human rights principles, education about human rights implies education leading towards advocacy. But this idea is quite general.

In terms of engendering social change, HRE would need to be strategically designed to reach and support individuals and groups that can work towards these goals. For example, with specific target groups, HRE would be related to the following social change framework:

Fostering and enhancing leadership. In order to bring about social change, it is necessary to have a committed group who have not only a vision but are politically aware. These leaders will need skills for developing specific objectives and effective strategies for the political and cultural environment in which they reside.

Coalition and alliance development. Education can be a tool for preparing individuals for their leadership responsibilities. Coalition and alliance development helps human rights activists to recognize how their mutual efforts can be successful in achieving social change goals.

Personal empowerment. The personal empowerment goal aims first at healing, then the development of community and then, social transformation. These dual and interrelated goals of personal empowerment and social change identify human rights education as unique when compared to other traditional educational programs, such as those outlined in "Strategizing for a Human Rights Movement in the U.S.," coauthored with Lyn B. Neylon in Evaluation of Human Rights USA.

This diverse social change framework is potentially complex, but the language of describing human rights education is general. We know that HRE program content minimally addresses the Universal Declaration of Human Rights (UDHR), other related key human rights documents, and monitoring and accountability systems. An important point is that although human rights education has moved beyond simply spreading information about human rights law, these instruments (and related mechanisms of protection) remain central to any program. Without reference to these mechanisms or instructions about their use, human rights education has trouble distinguishing itself from other fields such as peace education or global education.

HRE programming also involves an interactive educational approach. The language of HRE speaks of being relevant to daily life and to employing methodologies that engage participants in attitudinal skill as well as knowl-



edge development. The participatory approach is viewed as motivating, humanizing and ultimately practical, since this form of learning is linked more strongly with attitudinal or behavioral change than with a pure lecturing approach.

Emerging models of HRE

Models represent an idealized framework for understanding contemporary human rights education practice. The rationales for each model are linked implicitly with particular target groups and a strategy for social change and human development. Because of the abstract nature of the models below, they are necessarily lacking in detail and depth. For example, there is no distinction between formal, nonformal and informal educational approaches. The point of presenting these models, however, is

to begin to classify the kinds of HRE practices that we find in the field, to revisit their internal program logic and to clarify their external link with social transformation.

The discrete human rights education models presented here can be compiled into an adapted version of the "learning pyramid." At the large base, we would find the "values and awareness models," in the middle, the "accountability model," and at the narrow top, the "transformational model."

The placement of these HRE models in these positions reflects not only the size of the target populations with which they each deal (from educating the general public all the way up to creating new advocates) but also the degree of difficulty for each of the educational programs. Mass public education programs are about dissemination of programming, whereas the creation and capacity-building of activists require more complex and reciprocal longer-term commitments from all involved. All the levels are mutually reinforcing, but certain models are obviously more essential to promoting social change depending upon the status of a human rights movement within a particular community. A social reform program needs strong leadership that is focused on institutional and legal reform. However, a movement also needs grass-roots support, where the focus is on the individual and community supports.

In designing their programming, therefore, human rights educators need to take into account both need and opportunity. The educator may decide to implement a program solely based on their personal values, experiences, resources and position in society. However, the educator might also consider how the educational program he or she is planning to implement

East Timor: Stronger Judiciary needed

HUMAN RIGHTS WATCH

As East Timor prepared for independence on May 20, Human Rights Watch called on the new government to focus urgently on rebuilding the country's legal and judicial system.

"Billions of dollars are needed to rebuild East Timor's devastated infrastructure," said Mike Jendrzeczyk, Washington Director of Human Rights Watch's Asia Division. "But there must also be a determined effort to put in place the kind of legal and human rights protections that East Timor badly needs. The international community should help."

In particular, a fully functioning and independent judiciary is needed to curb corruption, establish East Timorese confidence in civil institutions, and attract foreign investment.

Human Rights Watch made recommendations in three areas: strengthening judicial reform, ratifying international human rights treaties, and bringing perpetrators to justice for serious human rights abuses committed in East Timor in 1999 and previously.

Much progress has been made in creating a judiciary, under difficult conditions, to deal with ordinary crimes. Language and transcription issues remain a problem, as trials that involve three or more languages contend with a lack of qualified translators. Judges struggle to perform their duties despite insecure tenure, and inadequate training and support staff. A lack of defense counsel has been exacerbated by the delay in appointing the necessary commission and staff to oversee a state-funded independent legal aid body.

Human Rights Watch also expressed its support for moves underway to ratify several important international human rights and humanitarian law treaties. The East Timorese leadership has announced plans to immediately sign the United Nations Charter, the Geneva Conventions, the International Criminal Court statute, and the conventions on refugees, chemical, biological and nuclear weapons, and landmines. They have also pledged to sign an unspecified package of human rights treaties and conventions, most likely during the General Assembly in New York later this year. This might include, for example, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as well as conventions outlawing torture and discrimination against women.

"The track record of many Asian governments is poor when it comes to adopting and complying with international rights treaties," said Jendrzeczyk. "East Timorese, having suffered terrible abuses for decades, can set a positive example for the rest of the region."

One of the most difficult challenges facing the new administration is the need to develop an effective strategy for dealing with the aftermath of the violence in 1999. Indonesian troops and army-backed militia carried out a scorched earth campaign of murder, arson and forced expulsions following the U.N.-supervised referendum on independence on August 30.

East Timor's newly created Commission for Reception, Truth and Reconciliation provides a mechanism for individuals guilty of "less serious offenses," such as arson and theft, committed between 1974 and 1999, to admit their responsibility and provide compensation to the victims. The Commission is designed to minimize acts of vengeance and internal divisions as East Timorese aligned with the militia, who fled or were expelled from East Timor, return to their home communities.

But many East Timorese remain frustrated at the lack of progress in bringing to justice Indonesian military commanders and militia leaders who ordered, directed, and carried out the violence. The Indonesian government has thus far refused to extradite any Indonesian soldiers or militia leaders to Dili for trial before a tribunal of international and Timorese judges called the Special Panels for Serious Crimes, which has been in operation since January 2001. At the same time, there is widespread skepticism that trials underway in Jakarta before Indonesian ad hoc tribunals will bring accountability. Top generals implicated in the 1999 campaign have not even been indicted.

relates to the HRE models introduced in this article, and how likely the program will support a movement towards a more fully realized human rights culture in the particular community or society.

Model 1 -- Values and awareness

In the "values and awareness model," the main focus of human rights education is to transmit basic knowledge of human rights issues and to foster its integration into public values. Public education awareness campaigns and school-based curriculum typically fall within this realm. It is not unusual for school curricula that include human rights to link up with fundamental democratic values and practice.

The goal is to pave the way for a world that respects human rights through an awareness of and commitment to the normative goals laid out in the Universal Declaration and other key documents. Human rights topics that would apply to this model include a history of human rights, information about key human rights instruments and mechanisms of protection, and international human rights concerns (e.g., child labor, trafficking and genocide). The key pedagogical strategy is engagement: to attract the interest of the participant. These methods can be quite creative (for example, when using media campaigns or popular streetwise education) but can also devolve into a lecture-oriented approach. However, this model places relatively little emphasis on the development of skills, such as those related to communication, conflict resolution and activism.

The implicit strategy is that mass support for human rights will continue to bear pressure upon authorities to protect human rights. This approach typically also fosters critical thinking and the ability to apply a human rights framework when analyzing policy issues. Thus, students are made to be "critical consumers" of human rights.

It is unclear if the knowledge and awareness approach does build to a "critical human rights consciousness" although this would presumably be a goal of such a program. Critical human rights consciousness might have the following criteria, as outlined in Garth Meintjes' article "Human Rights Education as Empowerment: Reflections on Pedagogy" in Human Rights Education for the Twenty-First Century:

"The ability of students to recognize the human rights dimensions of, and their relationship to, a given conflict- or problem-oriented exercise; an expression of awareness and concern about their role in the protection or promotion of these rights; a critical evaluation of the potential responses that may be offered; an attempt to identify or create new responses; a judgment or decision about which choice is most appropriate; and an expression of confidence and a recognition of responsibility and influence in both the decision and its impact."

Some examples of the values and awareness model include human rights-related lessons within citizenship, history, social science and law-related education classes in schools, and infusion of human rights-related themes into both formal and informal youth programming (e.g., the arts, Human Rights Day, debate clubs). Public awareness campaigns involving public art and advertising, media coverage and community events may also be classified under this model.

Felisa Tibbitts, is Director of Human Rights Education Associates (HREA). In the next episode Felisa will discuss other models of human rights education