



LAW event

Observing International Human Rights Day

Human rights abuse soars in Asia'

Human rights abuses are growing in Asia as most countries in the region face a breakdown of the rule of law, a Hong Kong-based rights group said.

The Asian Human Rights Commission said it had documented rights violations in Bangladesh, Bhutan, Burma, Indonesia, India, Malaysia, Nepal, Pakistan, Singapore, Sri Lanka and Thailand, with most victims coming from poorer communities.

"The incidence of rights abuse in Asia is growing exponentially," it said in a statement to mark International Human Rights Day on December 10.

"Asia's human rights situation remains very bleak with most countries facing the breakdown of the rule of law that makes their people live in instability and constant fear," it said in Hong Kong.

"The absence of the rule of law permits the exercise of absolute power." More Asians were ready to defend and assert their rights, but many who dared to make complaints and seek justice often met harsher and more violent state reactions, it said.

"This popular upsurge in almost all countries is greater than at any time in the past," the group said. But of those who protested, "some were harassed and intimidated; some were killed," the group said. Forced disappearances and custodial torture are major threats to human rights in many places in the region, it said. It highlighted Nepal and southern Thailand as places where the rising number of disappearances was causing deep concern. Many countries used torture to maintain law and order, it said.

"Police stations and military barracks in most places double as torture chambers."

The group said police were "the greatest obstacle" to the protection and promotion of human rights throughout the region, and were often the law breakers violating human rights.

"The majority of people suffer, a handful obtain extraordinary benefits. State security forces enjoy virtual impunity, and engage in extreme forms of cruelty," the group said.

Source: Reuters, Hong Kong

Freedom and security under strain: UN rights chief

The UN's human rights chief, Louise Arbour, criticised the global response to terrorism, warning that the international community's pledge to uphold freedom and security was under "considerable strain".

"As we commemorate International Human Rights Day 2004, the vision and the promise contained in the Universal Declaration of Human Rights are under considerable strain," the High Commissioner said in a statement.

"Few of us are free from fear; many of us are still not free from want."

"The sinister shadow of terrorism is generating a confused response, unanchored in the principles that have guided us in the search for a proper balance between our desire for collective security and our need for liberty and individual freedom," she added.

UN human rights officials have repeatedly raised concerns about detainees held in the US military base in Guantanamo Bay as well as abuse in the US-run Abu Ghraib jail in Baghdad.

The UN High Commissioner for Human Rights urged member states to protect human rights and not to become "prisoners of a culture of fear and an ideology of exclusion and arrogance".

Source: AFP, Geneva



South Asian nations for joint assault on terrorism

Seven South Asian nations pledged a joint assault on terrorism and transnational crime in response to regional violence and fraud.

Bangladesh, India, Myanmar, Sri Lanka, Bhutan, Nepal and Thailand agreed during a two-day meeting here to set up a series of programmes and mechanisms for more effective action, an official statement said.

The Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC) will serve as a platform for cooperation to enhance "operational and strategic capabilities in preventing and suppressing terrorism and transnational crime".

India's northeast, which borders other BIMSTEC nations, is wracked by myriad insurgencies in which thousands of people have been killed over the past five decades.

A 13-point agenda was adopted at the meeting of the BIMSTEC Joint Working Group on Counter-Terrorism and Transnational Crime (JWG-CITC).

The JWG was set up at the first BIMSTEC Summit in Bangkok in July to coordinate efforts in areas such as intelligence sharing and capacity building to combat terrorism and transnational crimes.

The summit had noted that terrorist groups gather strength from networking, taking advantage of the porous borders to operate across countries of the region and that action by one country on its own or bilaterally was insufficient to deal with the problem.

The meeting decided to enhance information and intelligence sharing regarding terrorism and transnational crime, deny sanctuary and transit facilities to and take effective measures against individuals, groups and entities involved in or associated with terrorist activities and prevent illicit trade and trafficking in arms.

It also decided to strengthen legal frameworks for cooperation, including through extradition and mutual legal assistance arrangements, and taking appropriate steps to meet the obligations of UN Security Council Resolution 1373 and other UN resolutions on combating terrorism.

Other decisions included preventing of currency counterfeiting, fraudulent use of travel and immigration documents and illegal movement of persons, including human trafficking and smuggling of migrants, by implementing effective border controls and other measures. The meeting also decided to set up several sub-groups to deal with various subjects.

Source: Crime Agencies, New Delhi

HUMAN RIGHTS campaign

A Summary of United Nations Agreements on Human Rights

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Universal Declaration of Human Rights

The UDHR is the first international statement to use the term "human rights", and has been adopted by the Human Rights movement as a charter in 1948 on December 10.

Covenant on Civil and Political Rights

This covenant details the basic civil and political rights of individuals and nations. Among the rights of nations are:

- the right to self-determination
- the right to own, trade, and dispose of their property freely, and not be deprived of their means of subsistence
- Among the rights of individuals are:
- the right to legal recourse when their rights have been violated, even if the violator was acting in an official capacity
- the right to life
- the right to liberty and freedom of movement
- the right to equality before the law
- the right to presumption of innocence till proven guilty
- the right to appeal a conviction
- the right to be recognized as a person before the law
- the right to privacy and protection of that privacy by law
- freedom of thought, conscience, and religion
- freedom of opinion and expression
- freedom of assembly and association

The covenant forbids torture and inhuman or degrading treatment, slavery or involuntary servitude, arbitrary arrest and detention, and debtor's prisons. It forbids propaganda advocating either war or hatred based on race, religion, national origin, or language.

It provides for the right of people to choose freely whom they will marry and to found a family, and requires that the duties and obligations of marriage and family be shared equally between partners. It guarantees the rights of children and prohibits discrimination based on race, sex, color, national origin, or language.

It also restricts the death penalty to the most serious of crimes, guarantees condemned people the right to appeal for commutation to a lesser penalty,

and forbids the death penalty entirely for people under 18 years of age.

The covenant permits governments to temporarily suspend some of these rights in cases of civil emergency only, and lists those rights which cannot be suspended for any reason. It also establishes the UN Human Rights Commission.

After almost two decades of negotiations and rewriting, the text of the Universal Covenant on Civil and Political Rights was agreed upon in 1966. In 1976, after being ratified by the required 35 states, it became international law.

Optional Protocol to the Covenant on Civil and Political Rights

The protocol adds legal force to the Covenant on Civil and Political Rights by allowing the Human Rights Commission to investigate and judge complaints of human rights violations from individuals from signatory countries.

Covenant on Economic, Social, and Cultural Rights

This covenant describes the basic economic, social, and cultural rights of individuals and nations, including the right to:

- self-determination
- wages sufficient to support a minimum standard of living
- equal pay for equal work
- equal opportunity for advancement
- form trade unions
- strike
- paid or otherwise compensated maternity leave
- free primary education, and accessible education at all levels
- copyright, patent, and trademark protection for intellectual property

In addition, this convention forbids exploitation of children, and requires all nations to co-operate to end world hunger. Each nation which has ratified this covenant is required to submit annual reports on its progress in providing for these rights to the Secretary General, who is to transmit them to the Economic and Social Council.

The text of this covenant was finalized in 1966 along with that of the Covenant on Civil and Political Rights, but has not been ratified yet.

UN Convention on the Condition of the Wounded and Sick in Armed Forces (I)

Also called the first Geneva Convention

The first Geneva Convention focuses on the rights of individuals, combatants and non-combatants, during war. It is lengthy and detailed, perhaps because human rights are rarely at such risk as during war and, in particular, involving prisoners of war or enemy captives.

Convention against Genocide

This convention bans acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group. It declares genocide a crime under international law whether committed during war or peacetime, and binds all signatories of the convention to take measures to prevent and punish any acts of genocide committed within their jurisdiction. The act bans killing of members of any racial, ethnic, national or religious group because of their membership in that group, causing serious bodily or mental harm to members of the group, inflicting on members of the group conditions of life intended to destroy them, imposing measures intended to prevent births within the group, and taking group members' children away from them and giving them to members of another group.

It declares genocide itself, conspiracy or incitement to commit genocide, attempts to commit genocide in the commission of genocide all to be illegal. Individuals are to be held responsible for these acts whether they were acting in their official capacities or as private individuals. Signatories to the convention are bound to enact appropriate legislation to make the acts named in Article 3 illegal under their national law and provide appropriate penalties for violators.

People suspected of acts of genocide may be tried by a national tribunal in the territory where the acts were committed or by a properly constituted international tribunal whose jurisdiction is recognized by the state or states involved. For purposes of extradition, an allegation of genocide is not to be

considered a political crime, and states are bound to extradite suspects in accordance with national laws and treaties. Any state party to the Convention may also call upon the United Nations to act to prevent or punish acts of genocide.

Convention against Torture

This convention bans torture under all circumstances and establishes the UN Committee against Torture. In particular, it defines torture, requires states to take effective legal and other measures to prevent torture, declares that no state of emergency, other external threats, nor orders from a superior officer or authority may be invoked to justify torture. It forbids countries to return a refugee to his country if there is reason to believe he/she will be tortured, and requires host countries to consider the human rights record of the person's native country in making this decision.

The CAT requires states to make torture illegal and provide appropriate punishment for those who commit torture. It requires states to assert jurisdiction when torture is committed within their jurisdiction, either investigate and prosecute themselves, or upon proper request extradite suspects to face trial before another competent court. It also requires states to co-operate with any civil proceedings against accused torturers.

Each state is obliged to provide training to law enforcement and military on torture prevention, keep its interrogation methods under review, and promptly investigate any allegations that its officials have committed torture in the course of their official duties. It must ensure that individuals who allege that someone has committed torture against them are permitted to make an official complaint and have it investigated, and, if the complaint is proven, receive compensation, including full medical treatment and payments to survivors if the victim dies as a result of torture. It forbids states to admit into evidence during a trial any confession or statement made during or as a result of torture. It also forbids activities which do not rise to the level of torture, but which constitute cruel or degrading treatment.

The second part of the Convention establishes the Committee Against Torture, and sets out the rules on its membership and activities.

The Convention was passed and opened for ratification in February, 1985.



At that time twenty nations signed, and five more signed within the month. At present sixty five nations have ratified the Convention against torture and sixteen more have signed but not yet ratified it.

Convention on Elimination of Discrimination Against Women

This convention bans all kinds of discrimination against women, which is popularly known as CEDAW.

Convention on the Rights of the Child

This convention bans discrimination against children and provides for special protection and rights appropriate to children and minors.

Charter of the United Nations

The Charter of the United Nations contains some important human rights provisions, in addition to containing the framework for the organization as a whole.

Source: Human Rights Web

LAW week

Civil, defence taskforces to stop illegal logging

The environment ministry formed four taskforces with civil and defence officials for four regions in the wake of growing incidents of timber smuggling. A senior army officer with the rank and status of a lieutenant colonel or major will lead each taskforce, said an official announcement.

The taskforces will initially operate in Dhaka, Chittagong, Khulna and Sylhet, Environment Minister Tariqul Islam told The Daily Star. The number of the task forces will be gradually increased, he added. A task force also has an officer each from Bangladesh Navy, Airforce and Coastguard, a representative from the deputy commissioner's office, a class one magistrate and an official from the forest department.

Ministry sources said formation of the taskforces was a must following frequent reports of timber smuggling in the forest areas. They expressed the hope that now smuggling of forest resources, especially timber, can be checked. The official announcement says the taskforces will carry out sudden raids on railway stations, roads and highways and waterways to check illegal timber transportation and take legal action on the spot. -The Daily Star, December 7.

IGP guilty of contempt

Inspector General of Police (IGP) Shahudul Haque was convicted of contempt of court after the Supreme Court rejected his appeal petition against the conviction by the High Court. The police chief will have to either pay Tk 2,000 in fine or serve a month in jail. This is for the first time such a high government official responsible for keeping law and order has been punished by court. An Appellate Division bench headed by the chief justice yesterday dismissed the appeal petition filed by Shahudul and three others against the January 27 High Court order that handed down the punishment. Legal experts quoting the law said the verdict of the highest court means the IGP stands dismissed from service.

Barrister Mainul Hossain, one of Shahudul's counsels, said the IGP has lost his job with the judgement. "Maybe the government would say it will take action after receiving the certified copy of the verdict but I can say he is dismissed," he told the BBC. Shahudul, whose contractual job as the IGP expires next March, is now in New York where he will visit the UN Peacekeeping Department before going to France to meet the Interpol secretary general at its secretariat in Lyon. He will return on December 13. The government has given Dhaka Metropolitan Police (DMP) Commissioner Ashraf Huda additional charge of the IGP. -The Daily Star, December 8.

Dhaka to ban chemical weapon production

Bangladesh as a signatory to the Chemical Weapons Convention (CWC) is going to enact a law imposing a permanent ban on development, production, stockpiling and use of chemical weapons in its military defence system.

The CWC implementation cell at the Prime Minister's Office (PMO) has already prepared a draft bill, which is likely to be placed in parliament in the next session to make it a law with a provision for strict punishment for its violation, sources said.

The state parties to the convention are determined to achieve effective progress towards general and complete disarmament under strict and effective international control, including the prohibition and elimination of all types of weapons of mass destruction. "As a signatory to the CWC, we have to

enact a law to implement the convention," former army chief and defence advisor to the prime minister Mahbubur Rahman told The Daily Star. He said the enactment of the law would help Bangladesh uphold its positive image in the campaign for world peace. Bangladesh earlier signed the Comprehensive Test Ban Treaty (CTBT), an accord against nuclear proliferation and test of nuclear weapons. -The Daily Star, December 9.

Bangladeshi truck driver released

The Bangladeshi truck driver held hostage in Iraq was released by Iraqi resistant fighters according to diplomatic sources. Abul Kashem Faruk, 44, who was captured by the Islamic Army of Iraq (IAI) on October 28, is now under the Iraqi Interior Ministry.

A Sri Lankan truck driver, who was kidnapped along with Faruk, has also been released. Sri Lankan smuggler to Kuwait who is already in Iraq has been asked by the government to receive Faruk on behalf of Bangladesh.

The Iraqi militants was abducted Faruk 60km away from Baghdad while transporting supplies to a US military base. Al-Jazeera was the first to broadcast a video message picturing him and the Sri Lankan driver. He was driving the truck for a private Kuwaiti company, Al-Jashem.

Bangladesh engaged the International Organisation for Migration and the Red Crescent Society in the rescue effort of Faruk. -Daily Ittefaq, December 10.

Concern over violation of human rights

Speakers at the inaugural session of a fair marking International Human Rights Day expressed grave concerns at escalating human rights violations in the country including violence against women and children, persecution of minorities, deaths in 'crossfire', mass arrests and corruption.

They asked the government and the people of Bangladesh to honour and promote the fundamental principles of personal liberty and freedom as guaranteed in the constitution. They also urged all to exercise the principles of the United Nations Declaration of Human Rights in 1948. Bangladesh Human Rights Advocacy Program (BHRAP) of the Academy for Educational Development (AED), a Washington-based NGO, organised the daylong 'human rights fair', first of its kind in the country, on the Jatiya Press Club premises in the capital with the slogan: 'Human Rights Begin at Home.'

The programme participated by several rights bodies from across the country began with an hour-long human chain near the Supreme Court. Susan Ward, chief of AED, Reazuddin Ahmed, president of Jatiya Press Club, Sigma Huda, special reporter on trafficking in persons of the UN Commission for Human Rights, and Judith Chammas, deputy chief of Mission of US Embassy, were present as special guests. -Prothom Alo, December 11.

Corresponding with the Law Desk

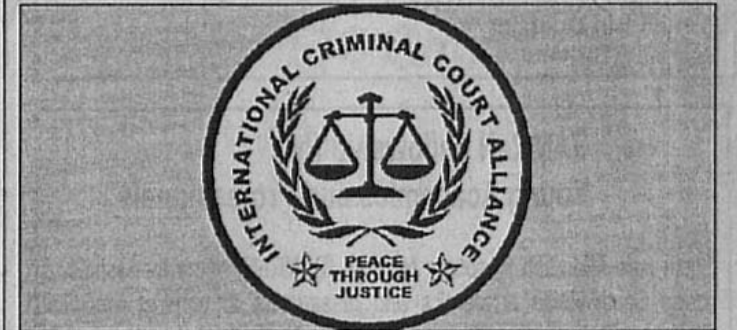
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LAW news

CALLS TO RATIFY ICC TREATY

International Criminal Court can strengthen human rights protection

An international coalition of more than 2,000 civil society organisations, academics and lawyers called on the government of the Bangladesh to ratify the Rome Statute of the International Criminal Court (ICC) the treaty that



created the world's first permanent court capable of trying individuals, accused of genocide, crimes against humanity and war crimes when national courts are unable or unwilling to do so.

As the world celebrates the 55th anniversary of the adoption of the Universal Declaration of Human Rights, the NGO Coalition for the International Criminal Court (CICC), whose members include Amnesty International, Human Rights Watch, the International Federation for Human Rights (FIDH), and Parliamentarians for Global Action among others, is calling for Bangladesh to embark upon the process of ratification immediately and be amongst the first 100 States Parties to the ICC.

Although Bangladesh signed the Rome Statute on September 16, 1999, it has yet to ratify the treaty.

Ms. Evelyn Balais-Serrano, coordinator for Asia of the NGO CICC, said "the International Criminal Court is seen as the most significant international tribunal since the courts established to try Nazi leaders after World War II and the most important advancement in human rights protection since the adoption of the 1948 Universal Declaration of Human Rights."

"Bangladesh can make the world more just and help put an end to impunity by ratifying the ICC treaty," she added.

The Rome Statute, the treaty creating the ICC, was adopted on July 17, 1998 and entered into force on July 1, 2002. To date, 97 countries more than half the world have ratified the treaty.

The United Nations General Assembly adopted the Universal Declaration of Human Rights, a universal standard for promoting human rights, on 10 December 1948. On Human Rights Day, December 10 every year, it is celebrated around the globe that "All human beings are born with equal and inalienable rights and fundamental freedoms".

Source: Coalition for the International Criminal Court-Asia