



RIGHTS monitor



Colombian conflict could wipe out indigenous groups

INDIGENOUS groups in Colombia are in danger of disappearing amid the country's continuing conflict, warned the UN refugee agency today as it joined a mission to assess the situation of thousands of indigenous people displaced by fighting in the south-west.

The clashes between the Colombian Army and guerrillas from the Revolutionary Armed Forces of Colombia (FARC) displaced an estimated 3,500 indigenous Nasa people from the area around the village of Toribío in the south-western province of Cauca. The number could swell to 5,000 if the fighting continues. UNHCR and other UN agencies visited the area on Friday to evaluate the humanitarian needs of the population and to support relief efforts by the civilian authorities.

The Nasa, however, are just one of many indigenous groups that have been affected by more than two decades of conflict in Colombia. Attacks on indigenous communities and leaders are reportedly on the rise this year.

"There are even fears that, if the present trend continues, some of the smaller and more vulnerable groups and their cultures may actually disappear as they are driven from their ancestral lands and disperse possibly never to return," UNHCR spokesman Ron Redmond told journalists in Geneva on Friday.

"Some small indigenous communities of the Amazon region are in real danger of becoming extinct," said Rodolfo Stavenhagen, the UN Special Rapporteur on the Rights of Indigenous Peoples. "The conditions of internally displaced indigenous people are especially worrying, particularly those of women, girls and boys."

Colombia is home to over 80 indigenous groups numbering just under 1 million people. Forced displacement has affected them in a disproportionate way: although indigenous people make up just 2-3 percent of the country's population, as many as 8 percent of all internally displaced people are indigenous. Virtually all indigenous groups in Colombia have been victims of forced displacement or are at serious risk of being displaced from their ancestral lands.

Indigenous people often become displaced within their region of origin, to try to preserve their ties to their ancestral territories, or flee towards remote areas where they cannot be easily detected, and this is a contributing factor in making their tragedy invisible.

Since indigenous identity and culture are closely linked to the land, indigenous communities suffer serious irreversible damage when forced to displace: loss of traditional and cultural patterns, including language, and a dramatic deterioration of their lifestyle. These changes affect particularly the most vulnerable groups, such as children, youth and the elderly.

In the north-western province of Chocó, some 4,000 indigenous Embera people are at imminent risk of being displaced by fighting between guerrillas and paramilitary groups in the Bojayá area. In March 2004, over 1,200 persons from five indigenous communities in this area were forced to flee their homes. Since the beginning of this year, the irregular armed groups have increased their activities, imposing blockades to stop food, medicine, fuel and other vital supplies from reaching some communities.

In the northern region of the Sierra Nevada de Santa Marta, some 40,000 people belonging to four indigenous groups (Wiwas, Koguis, Kankuamos and Arhuacos) are struggling to survive and defend their culture. Caught between different armed groups fighting for control of this strategic area, the peoples of the Sierra Nevada face a growing trend of forced displacement and restrictions in the access to vital food and medicine supplies.

Like many of the indigenous peoples of Colombia, the Eperara-



Siapiadaara, who live along Colombia's Pacific coast, have historically suffered from the colonization of their lands, which resulted in the sacking of natural resources and the planting of illegal crops. They have also been victims of forced recruitment by irregular armed groups, and are at risk of being forcibly displaced.

According to UNHCR's estimates, 46 percent of all the victims of mass displacements in the southern province of Nariño last year, were indigenous. This is particularly worrying since indigenous people make up less than 8 percent of Nariño's population. Nearly half of those indigenous persons who were victims of mass forced displacements were neither registered nor assisted by the authorities. The figure is probably higher for individual displacements.

Indigenous communities in Antioquia, Chocó and Cauca, have denounced abuses by the Colombian Armed Forces. Others, like those in Arauca, Chocó, Guaviare and the Amazonian province of Vaupés, have denounced the presence of antipersonnel mines in their territories.

"More than 20,000 people in the Mitú and Carurú areas of Vaupés, a province where 85 percent of the population is indigenous, are caught in the cross-fire between the different parties to the conflict. We warn about the serious risk of extinction of these indigenous communities," said the Association of Traditional Authorities of Vaupés.

"We call on the Colombian authorities to take urgent measures to protect indigenous communities and leaders and to investigate all the murders and other crimes committed against them," said UNHCR's Redmond. "We also call upon all the parties to the conflict to respect the principles of International Humanitarian Law, respect the rights of the civilian population and refrain from involving civilians in the conflict."

In Colombia, the UN refugee agency works to protect the rights of indigenous people, to promote the participation of indigenous women in their communities' decision-making processes, and to strengthen indigenous organizations in order to improve their response capacity.

Source : UNHCR

LAW opinion



World press freedom day

BARRISTER HARUN UR RASHID

ON May 3rd, World Press Freedom Day is observed in all member-states of the UN (191 states). The day is very significant because press freedom is inextricably intertwined with democracy. In democracy, political power rests with the people (Article 7 of the Bangladesh Constitution) and they exercise it periodically by participating in the elections. It is the people who change the government in democracy and in Bangladesh we have witnessed it since 1991.

Why freedom of press is important?

Both the government and the press have common goals in the continuing search for ways of meeting the needs, aspirations and sufferings of people. Often journalists have to undertake investigative journalism to expose abuse or misuse of power of government leaders and officials.

Press is the mirror of society and if government does not allow press freedom, it is the government that eventually suffers from being unexposed to people's views on governance. In the elections government is likely to be defeated by rival parties because the government leaders allow themselves to be insular from the views of people.

Freedom of press provides the people with all necessary information about the policies and programmes of all political parties, contesting the elections in the Parliament. That is why journalists perform their difficult tasks appraising the voters on issues of good governance and accountability.

Article 39.2(b) of the Bangladesh Constitution guarantees freedom of the press "subject to any reasonable restrictions imposed by law in the interests of the security of state". The word "reasonable" employed in the Article is important. If the restrictions on freedom of press are not "reasonable", they are untenable under the Constitution and the Supreme Court has the jurisdiction under Article 102 to declare the restrictions without lawful authority.

Role of the Press

With the information technology the role of journalists have changed around the world. Journalists have become more investigative and sensitive to the needs and sufferings of people. Furthermore, changes are taking place as part of a generational shift caused by globalisation and easy communication.

The changes are not just part of routine duties but represent a move in the light of concern of breaches of human rights and good governance. Good governance is imperative for economic growth and reduction of poverty. Among the aspects of good governance, corruption has been the focus of a great deal of concern and controversy.

It is the press that is active most in exposing corruption of officials who exercise public power for private gain. If a country is corrupt ridden,

government's credibility is weakened in the eyes of international community. As a result, foreign direct investment is seriously affected and a higher rate of economic growth is not achievable.

Journalists encounter people at the personal level and know the heartache of many disadvantaged citizens and it is this intimate knowledge with which journalists are empowered to reveal stories, that would be otherwise unknown to government and people. Journalists are expected to raise the level of awareness, to stimulate civil society to mobilize public opinion and exercise pressure on the government to take steps to improve governance.

ists that run hundreds of pages. Journalists are expected to use fair, responsible and lawful means to obtain material or information. Based on this code, there can be no case of entrapment by media representatives to obtain a story.

For example, in 2001, London's News of the World excelled itself when its journalist Mazhar Mahmood, reportedly dressed up as a "Sheikh" from a Middle Eastern country pretended to engage in a lucrative deal with the public relations firm of Queen's daughter in law, Sophie, the Countess of Wessex, the wife of Prince Edward, Queen's youngest son.

The journalist secretly taped her remarks on a



In other words, press stands between citizens and government's misuses of power and often acts as a guardian of protection of human rights and is intimately connected with activity towards the establishment of constitutional systems based on democratic legitimacy and rule of law.

Freedom is not unfettered right

Press freedom brings responsibility, accountability and ethical standards. Freedom is not "license" because freedom implies that press must adhere to ethical standards and avoid sensational untrue stories. The basic rule of journalism should not be jettisoned in pursuit of a sensational story. The question to be asked is : does the method sound right or ethical?

Each newspaper has a code of ethics for journalists and it may run several pages. It says what journalists can do or cannot do. The New York Times has a code of ethics for their journal-

variety of topics during a late night drink in a bar at the London's posh Dorchester Hotel. Some of the remarks of the Countess were tactless remarks that were published in the national dailies. A question was raised as to whether ethical standard was maintained to get such stories by the newspaper.

Conclusion

World Press Freedom Day reminds the duties and responsibilities of the press and the governments. While exercising the right of freedom of press, journalists may take account what constitutes "public interest" and what is ethically permissible to obtain or publish information for the public. Journalists, editors and publishers must stick to their strategy in disseminating information that can stand the test of "public interest".

The author is Former Bangladesh Ambassador to the UN, Geneva.

LAW week



HC stays cancellation of Faizee's enrolment

The High Court (HC) in a rule stayed Bangladesh Bar Council's cancellation of Additional Judge Faisal Mahmud Faizee's certificate of enrolment as an advocate and ordered it to explain why the cancellation would not be declared illegal.

The court directed the Bar Council to respond to the rule within eight weeks and stayed the cancellation until the rule is disposed of. It also ordered the Bar Council to explain why the show-cause notice the Council had served on Faizee would not be declared illegal. The Council in November asked Faizee to show cause within seven days why his enrolment should not be cancelled. Faizee did not reply to the notice, though. Later, on April 24, the Bar Council at a meeting cancelled Faizee's certificate of enrolment.

The HC rule and the stay order followed a writ petition filed by Faizee on May 5 challenging the Council's show-cause notice and cancellation of his enrolment. This is the first time in the country's judicial history that a sitting judge himself has turned to the highest court to save his job. The respondents of the rule are the Bangladesh Bar Council represented by its secretary, its chairman and Vice-Chairman Barrister Rakanuddin Mahmud. *The Daily Star, May 8.*

Savar tragedy factory owner surrenders, sent to jail

A Dhaka court sent the managing director of the collapsed sweater factory at Savar, Shahriar, alias Sayeed Hossain, and a director of the factory, Abul Hashem Fakir, to jail after they surrendered for bail. Shahriar had been absconding since April 11, when the nine-storey factory building at Palashbari in Savar collapsed in the middle of the night, killing 61 people and injuring 84 others, according to official estimates.

Judge Mohammad Rafiqul Islam of the District and Sessions Judge's Court issued the order when Shahriar, the managing director (MD) and also one of the owners of Savar Spectrum Sweaters Industries Ltd., as well as director Hashem Fakir, alias Abul Hashem Fakir, appeared before the court for bail. The two accused, along with their lawyers, advocates Abdus Sabur, Khorsheed Alam and Sanaullah Miah, appeared before the court seeking bail.

Moving the bail petition, the lawyers told the court that the building collapse was merely an accident and that the owner paid Tk 20 lakh to the victims' family members. Moreover, the charges brought against the accused are all bailable, the lawyers said. *The Daily Star, May 9.*

Colonel Faruk acquitted of forex case

Condemned prisoner in the Bangabandhu Murder Case Lt Col (dis-missed) Syed Farukur Rahman has been acquitted of charges in a case filed for possessing foreign currencies.

The Fourth Additional Metropolitan Sessions Judge's Court yesterday pronounced the verdict in presence of Faruk, also sentenced to life in the Jail Killing Case. Judge Mohammad Monzurul Haq Bachhid of the court said the charges brought against him were not proved.

Earlier, the prosecution and the defence completed their arguments and the court recorded statements of six prosecution witnesses.

Later, two cases were filed with Cantonment Police Station -- one under the Arms Act and the other under the Special Powers Act. The Criminal Investigation Department (CID) pressed charges against Faruk in the foreign currency case on January 29, 1997. *The Daily Star, May 10.*

Jubo dal leader killing 11 AL men given life term

A Dhaka court sentenced 11 leaders and activists of the Kapasia upazila unit Awami League (AL) to life imprisonment for killing Moktar Hossain, a Jubo Dal leader of Kapasia upazila of Gazipur, in October 2001.

Following the verdict, police swooped on AL leaders and activists

while local lawmaker Tanjim Ahmed Sohel was addressing a rally on the court premises, expressing his dissatisfaction over the judgement. The convicts are Singhsree Union Parishad Chairman Ashraf Uddin Khan, Sajal, Shafiq Kaiya, Huzzul, Romel, Mukul, Kashem, Momtaz Morol, Khokon, Swapan and Farhad Hossain. The court acquitted 11 others as the charges brought against them were not proved.

Judge AR Masud of the Speedy Trial Tribunal-4 handed down the verdict in a packed courtroom in the presence of the convicts. Earlier, the prosecution and the defence completed their arguments and the court recorded statements of 14 prosecution witnesses. *Prothom Alo, May 10.*

Kibria killing chargesheet in blast case accepted

A Special Tribunal here accepted the charge sheet in the explosive case involving the killing of former finance minister and Awami League (AL) leader Shah AMS Kibria.

Termining the investigation incomplete, the complainant urged the court to investigate the source of the grenade, which was used in the incident that killed AL lawmaker Kibria and four other AL men on January 27. But the court rejected the appeal as well as the prayer for bail of the eight accused and issued warrants of arrest against the two absconding accused.

The eight accused were produced before the Special Tribunal-1 under strict security. They are principal accused Abdul Kaiyum, Shahed Ali, Jamir Ali, Joinal Abedin Momin, Aiat Ali, Selim Ahmed Joinal Abedin Jalal and Tajul Islam. In his appeal, complainant Mohamad Azizul Islam, told the court the investigating officer (IO) in the explosive case mentioned that the grenade used in the January 27 incident was brought from Chunarughat. But the IO in the charge sheet did not mention from whom the grenade was collected. Azizul Islam termed it a failure of the IO and expressed his apprehension that lack of such information would not bring justice. *BD News, May 10.*

SCBA takes out black flag procession

The Supreme Court Bar Association (SCBA) took out a procession at the Supreme Court premises, demanding the removal of High Court Additional Judge Faisal Mahmud Faizee.

Over 100 lawyers carrying black flags joined the procession. After the procession, the SCBA leaders addressed a rally and urged Faizee to resign. They also urged Chief Justice Syed JR Mudassir Husain not to allow Faizee to sit at any bench. "We've learnt about a government move that asked the Chittagong University to show Faizee innocent in a so-called investigation and award him an LLB certificate," SCBA President Mahbubey Alam said at the rally.

The Bangladesh Bar Council, in an unprecedented move on April 24, cancelled Faizee's enrolment certificate as a lawyer on the grounds of providing false information about his age.

The High Court, on Saturday, stayed the Bar Council decision following a writ petition filed by Faizee himself that challenged the cancellation of his enrolment. *Prothom Alo, May 11.*

Govt to probe deaths in Rab crossfire

Amidst controversies over extra-judicial killings, the government decided to conduct executive enquiry into the deaths in "crossfire" with Rapid Action Battalion (Rab). "We will conduct executive enquiry into the incidents," State Minister for Home Lutfuzzaman Babar told journalists after a meeting of the cabinet committee on law and order. "The enquiry will start shortly," he said.

LGRD and Cooperatives Minister Abdul Mannan Bhuiyan who chaired the meeting said an enquiry would take place to examine whether the incidents of death were intentional. Available statistics show more than 80 people were killed in Rab "crossfire" since the anticrime force went into action on March 26 last year. Sources concerned said that the meeting had discussion on the concerns expressed by European Union and others over the extra-judicial killings. The main opposition Awami League also took a tough stance on the issue after a mid level leader of the party, Dudh Mia, was killed in crossfire last week.

Among others present in the meeting were Law Minister Moudud Ahmed, Housing and Public Works Minister Mirza Abbas, Fisheries and Livestock Minister Abdullah Al Noman, cabinet secretary, home secretary, law secretary and inspector general of police. *BD News, May 12.*

FACTfile



Maldives: Human rights at the heart of the political reform process

As the Maldivian Constitutional Assembly prepares to debate a new constitution, Amnesty International is urging it to place respect for human rights at the centre of its deliberation and the government proposed reforms. Among the documents before the Constitutional Assembly is a proposal by President Maumoon Abdul Gayoom to amend parts of the current constitution including the section on fundamental rights.

In a report published Amnesty International recommends that all human rights set out in key international human rights treaties, including the rights to freedom of conscience and freedom of assembly, physical and mental integrity, and the right to life, are incorporated in the new Constitution. It is particularly important to include a provision in the Constitution that all new and existing laws or regulations should be in accordance with the new Constitution and international treaties to which Maldives is a party.

The drafting of a new constitution is part of a wider reform process initiated by President Gayoom under public pressure. Steps towards reform already taken by the government and welcomed by Amnesty International include the Maldives accession to the UN Convention against Torture.

Amnesty International is urging the government to ensure that its provisions are fully incorporated into the new Constitution and all relevant domestic laws. Other human rights instruments such as the International Covenant on Civil and Political Rights need to also be ratified without undue delay.

The organisation recommends that the guiding principle in drafting any new legal texts should be safeguards for the protection of human rights as provided in international human rights treaties.

Amnesty International is calling for the independence of the Human Rights Commission of Maldives to be fully guaranteed in the new Constitution. In addition it is urging that the provisions of the Paris Principles of the UN guidelines guaranteeing the independence and effective functioning of national human rights institutions are incorporated in a bill on the Human Rights Commission of Maldives, in full and without any reservations. Amnesty International is encouraged by a government initiative to develop a National Criminal Justice Action Plan, which seeks to ensure the effectiveness of law enforcement mechanisms; enhance transparency and accountability; introduce evidence-based investigation, prosecution and trials; enhance rehabilitation and re-integration opportunities; minimise re-offending; promote alternatives to pre-trial detention; promote alternative sentencing mechanisms, and prescribe punishments reflective of crime and criminal culpability in the period between 2004 and 2008. The plan appears potentially to address some of the basic shortcomings in the criminal justice system, such as the right to challenge the lawfulness of one's detention.

Amnesty International is urging the government to ensure that the provisions of international human rights treaties are fully incorporated into any legislative, policy and administrative initiatives so that existing fundamental flaws in the criminal justice system, including the apparent use of confession obtained under duress as evidence in court, are removed. The organisation urges the government to bring to justice the personnel of the National Security Service who were involved in committing human rights abuses against the detainees in the first few days after their arrest. Detailed and consistent testimonies gathered by the Amnesty International delegates showed detainees had been held blindfolded and handcuffed for up to 19 hours, made to sit still on a chair or in one spot for several hours at a time during this period, and subjected to physical assault, food deprivation, and in some cases, to sexual violence. No one has been brought to justice for these abuses.

Source: Amnesty International.

LAW watch



Journalists killed most often by murder, not accident

"Murder is the leading cause of job-related deaths among journalists worldwide, and the Philippines is the most murderous country of all, a new analysis by the Committee to Protect Journalists [CPJ] has found. Iraq, Colombia, Bangladesh, and Russia round out CPJ's list of the 'Most Murderous Countries for Journalists.'"

"In issuing its analysis to mark World Press Freedom Day, May 3, CPJ called murder with impunity the most urgent threat facing journalists worldwide. CPJ studied more than five years of death records beginning January 1, 2000, and found that the vast majority of journalists killed on duty did not die in crossfire or while covering dangerous assignments. Instead, 121 of the 190 journalists who died on duty worldwide since 2000 were hunted down and murdered in retaliation for their work...."

"In more than 85 percent of these slayings, CPJ found, the killers have gone unpunished. The five 'Most Murderous Countries' [Philippines, Iraq, Colombia, Bangladesh, Russia] have the worst records. Of the 58 murders in those nations, all have been committed with impunity. Alleged gunmen have been arrested and charged in a small handful of cases, but no charges have ever been brought against those who directed the killings."



"By failing to investigate and punish the killers, the governments in these five countries embolden all those who seek to silence the press through violence," CPJ Executive Director Ann Cooper said. "The violence becomes self-perpetuating and the free flow of information is cut off."

"Other patterns emerged in CPJ's analysis:

- * "In most cases, journalists were murdered in retaliation for reporting on government corruption, crime, drug trafficking, or the activities of rebel groups...."
- * "Even in war zones such as Iraq, journalists were frequently targeted in reprisal for their work."
- * "Many of the slain journalists were overtly threatened beforehand, illustrating the brazen nature of their killers."
- * "And the five Most Murderous Countries stand well apart from the rest of the world. Together, they account for nearly half of the murder toll since 2000."

"The problem is enormous, but not intractable," Cooper said. "Governments must recognize what's at stake is not only justice for those murdered but also the collective right of society to be informed. Journalists cannot do their jobs in a climate of violence and impunity. Governments, particularly those in the five most murderous countries, must devote the resources and exercise the will to solve these crimes".

Source: Committee to protect journalists.

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