



LAW campaign



RESOLVING ETHNIC CONFLICTS

What is the role of education?

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"WE must do more to prevent conflicts happening at all. Most conflicts happen in poor countries, especially those which are badly governed or where power and wealth are very unfairly distributed between ethnic or religious groups. So the best way to prevent conflict is to promote political arrangements in which all groups are fairly represented, combined with human rights, minority rights and broad-based economic development." [Kofi Annan, Secretary-General of the United Nations Statement on presenting his Millennium Report, 3 April 2000]

Minority issues have been at the heart of many violent conflicts. In 2002, an assessment of 53 ongoing conflicts found that over seventy-one percent of the world's conflicts had an ethnic dimension. Internationally, ethnic nations, especially in Europe, Asia and Africa, have been divided by state borders through wars, the wake of communism or colonialism. This sometimes caused very serious kin-state/home-state conflicts.

Minorities are the part of a population that suffer most from conflict and are most likely to become victims of crimes under international law. This is acknowledged by one of the fundamental principles of minority rights law, namely the contribution to peace and stability. Furthermore, the major international legal instruments governing the rights of minorities relate to this objective, by setting out obligations regarding the physical existence of minorities. Additionally, the fact that the crimes as set out in the Rome Statute of the International Criminal Court do, for a large part, have a minority aspect inherent in them shows that minorities could be the primary beneficiaries from international justice in the future.

Furthermore, international and domestic peace can also be jeopardized when an ethnic minority considers itself a nation and wants to break out of a country either to become independent or to join a neighboring state. Minorities are particularly vulnerable to persecution by their own governments in internal conflicts and what has been called "tyrannical regime victimisation".

According to a study, nearly fifty ethnic and



religious minorities have been targeted in forty-one episodes of genocide and mass political murder, resulting in at least thirteen million and as many as twenty million casualties of non-combatants. Non-international conflicts in the twentieth century resulted in more than 170 million deaths until the mid-nineties. In the last decades, the conflicts raging, inter alia, in the Socialist Federal Republic of Yugoslavia (hereinafter: Former Yugoslavia), Rwanda, Northern Ireland and East Timor can all be traced back to the existence of minority people asserting various rights. The suppression of minorities leads not only to internal instability and unrest, but can cause destabilisation of entire regions, such as the former Yugoslavia and Indonesia.

Minority rights can be used to prevent crimes perpetrated against them in a variety of areas. This can be the case in fields conventionally associated with minority rights such as identity of communities and the education of the general public thereof. Additionally, areas

that seem to be at first glance further away from the traditional realm of minority rights, such as the international criminal legal system that sets out deterrence as one of their major objectives, have a lot to gain from taking minority rights into account.

International criminal law can serve as active protection of minorities. However, these findings are currently not implemented in the practical work of international criminal justice, in particular in the jurisprudence of the International Criminal Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda. This is regrettable, since their impact could increase by making use of the concept of international minority rights law as a way of broadening the understanding of crimes committed as to their roots, causes and prevention.

Therefore, education and mutual exchange within different societal groups or between different branches of law or legal practitioners are seen as key elements in the struggle against crimes perpetrated against minorities.

Emphasis should be laid on the interrelation and connection between the areas of international criminal and international human rights law.

Educating minority populations about their rights and raising awareness amongst the general public of the minority identity and culture, and their contribution to a common culture and history, contributes to mutual understanding and acceptance, preventing ethnic entrepreneurs to succeed in dividing communities.

The concept of education needs to be expanded to judicial systems, meaning that practitioners in both international criminal and minority rights law need to realise that the protection of minorities is an interdisciplinary effort, which cannot be achieved by experts focusing on one subject matter or one branch of law alone. If the ad hoc tribunals' claim of deterrence is supposed to be a valid one, they have to take into account minority rights law to expose the system of structural discrimination and violence in a society that often leads to crimes perpetrated against minorities. Experts dealing with the practical implementation of minority rights, on the other hand, can benefit from the research and investigations conducted within the international criminal legal system.

In the future, this linkage might be furthered by the judges of the ICC, who, according to the Rome Statute, need to be experts either in criminal law and procedure or in relevant areas of international law, such as humanitarian or human rights law. A quota provision guarantees that judges of both fields are represented in the court. This constitutes a promising development as to the recognition of the interdependence between international criminal law, international human rights law and public international law and confirms that these areas of law have a lot to gain from each other in the process of combating crimes under international law and protect minorities.

If, as H.G. Wells suggested in 1920, "Human history becomes more and more a race between education and catastrophe"; the international community must use the means it has to make sure it supports the right runner.

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RIGHTS corner



End wage exploitation of domestic workers

INDONESIAN and Malaysian ministers meeting in Kuala Lumpur ensured that pending revisions to a labour pact include a minimum wage and stronger oversight of recruitment fees, Human Rights Watch said. The two governments have indicated their agreement to revise a 2006 Memorandum of Understanding (MOU) to allow domestic workers to keep their passports and have a weekly day of rest, but negotiations have stalled on a minimum wage.

The session is to prepare for a meeting next week between President Susilo Bambang Yudhoyono of Indonesia and Prime Minister Najib Razak of Malaysia. During the one-day preparatory meeting, officials will try to resolve differences on contentious bilateral issues, including border enforcement and labour migration of domestic workers. "Indonesian domestic workers earn shamefully low wages for their long hours of work and dedicated service to Malaysian families," said Nisha Varia, senior women's rights researcher at Human Rights Watch. "It is also strikingly discriminatory when domestic workers from other countries automatically receive higher wages."

Approximately 300,000 domestic workers, mostly from Indonesia, work in Malaysia. Many work up to 18 hours a day, seven days a week, for wages of 400 to 600 ringgit (US\$118-177) a month. Domestic workers must typically turn over the first six to seven months of their salary to repay exorbitant recruitment fees charged by private labour brokers for placing them in their jobs. When salary deductions to repay recruitment fees are taken into account, the Indonesian domestic workers only earn an average of 300 to 450 ringgit (US\$89-133) a month over a two-year contract.

In the absence of government regulations, employment agencies and employers typically set domestic workers' salaries based on their country of origin instead of their education and experience. Filipina domestic workers in Malaysia earn the highest salary at US\$400 a month because of requirements imposed by the Philippines government. Malaysia offers the lowest wages in comparison to other countries employing large numbers of Indonesian domestic workers. For example, Indonesian domestic workers in Saudi Arabia are entitled to a salary of 800 riyals (US\$213) per month without any deductions.

Malaysia has no national minimum wage, but the Human Resources Ministry is conducting a study to consider introducing one for private sector workers. The Malaysian Trades Union Congress advocates a minimum wage of 900 ringgit (US\$266), and the Malaysian government considers earnings less than 750



ringgit (US\$222) to fall below the national poverty line.

"When people are desperate for work, they have little power to negotiate decent terms of employment," Varia said. "The current plight of Indonesian domestic workers is a clear example of where governments should step in to prevent unchecked market forces that lead to discriminatory and exploitative working conditions."

Large numbers of complaints from domestic workers of non-payment of wages and a series of high-profile abuse cases led Indonesia to suspend migration of domestic workers to Malaysia in June 2009 until new protections were put in place. After several bilateral meetings and missed deadlines, Indonesia and Malaysia still disagree on Indonesia's demand for a minimum wage, and the current draft agreement will give employers the option of paying a worker to forego the weekly day of rest, a provision that can be abused easily. Recruitment fees are also a major problem, Human Rights Watch said.

"Protection of domestic workers' wages is not only about increasing the level of their monthly salary, but also ending the practice of deducting salaries to repay recruitment fees," Varia said. "This practice contributes to abuse and forced labour, and both Indonesia and Malaysia have failed miserably to oversee labour recruiters and their profiteering from migrant women."

Indonesian labour recruiters charge high placement fees to migrant domestic workers that often exceed reasonable costs. Since most migrant domestic workers are unable to pay these fees, the Indonesian agency typically offers them a "loan." The loan is passed on to Malaysian recruitment agencies or employers, who then take the first six to seven months of the domestic workers' salary as repayment.

Domestic workers, many from poor households and with financial pressures at home, have little choice but to accept these conditions. This system contributes to domestic workers being trapped in abusive situations as some employers may restrict their freedom of movement to prevent them from running away before the debt is repaid. In other cases, domestic workers may be pressured by employment agencies to stay with abusive employers until the debt is repaid, or they endure such conditions so that they can ultimately send money home.

Human Rights Watch released a statement on March 4 detailing gaps in the proposed revisions to the MOU and recommendations for reform. The recommendations include a commitment to extend equal protection under Malaysia's labour laws to domestic workers, under Section XII of the Employment Act of 1955; provision for a standard contract that ensures minimum labour protections, including a 24-hour rest period each week, a fair minimum wage, a limitation on weekly hours of work, and benefits; and stronger regulations governing recruitment agencies, including eliminating salary reductions to repay recruitment fees, and providing mechanisms to monitor and enforce these standards.

Source: Human Rights Watch.

FOR YOUR information

Why is TIN required?

MD. RAISUL ISLAM SOURAV

TIN (Taxpayer's Identification Number) is an illustrious term in Tax phenomena. As stated in the provision of the law (S. 184B of the Income Tax Ordinance, 1984) "Every assessee or any person who applies for tax payer's identification number will, on payment of tax, be given a tax payer's identification number in such manner as may be prescribed".

Regrettably, most of us do not know the actual utility of TIN. TIN is not only a mere number, but also has some sensible implementations and values. Nevertheless, we cannot oppose the significance of TIN for orderly arrangement of taxpayer's in our total Tax scheme. In our country, a number of people feel panic to get TIN; since they think that if they have a TIN, a burden of paying tax would inflict over them. Person having no obligation to pay taxes chargeable under the present law is free from the lumber of paying taxes even if he has a TIN certificate.

TIN is a ten-digit figure provided by the concern tax office; first three of which indicate the location of the assessee, middle three digit specify the status of the assessee and last four digit signifies the unique number exclusively for that assessee; like: 187-101-7543.

Collecting procedure: To get a TIN certificate first of all, one should know the determined circle office specified for that person on the basis of his residence. Then apply to the Deputy Commissioner of Taxes in the prescribed form which is prescribed in accordance with S. 64B of the

Income Tax Rule, 1984 with TK. 1000 as advance tax which may be deducted from further assessment. The prescribed form can be collected from www.nbr-bd.org free of cost. Within 24 hours from submitting the application to the concerned authority or any other person authorized by the Board in this behalf, a TIN may be allocated in the name of the claimant.

Importance: TIN has an extra worth for the reason of its requirement in some arena of our daily affairs. Without presenting TIN certificate

at that particular place(s), one cannot do his desired job. To furnish that task fruitfully it is mandatory to show TIN certificate at that place which is stipulated in S. 184A of the Tax Ordinance. The place(s) at which a person is required to produce the TIN certificate are:

- opening a letter of credit for the purpose of import or submitting an application for the purpose of obtaining an import registration certificate.
- renewal of trade license in the area of a city corporation or of a

paourashava of a divisional headquarters or of a district headquarters.

- submitting tender documents for the purpose of supply of goods, execution of a contract or for rendering services.

- submitting an application for membership of a club registered under the Companies Act, 1994.

- issuance or renewal of license or enlistment of a surveyor of general insurance.

- registration for purchase of land, building or an apartment situated within any city corporation, deed value of which exceeds one lakh taka. However, this is not applicable in case of registration for purchase of land, building or an apartment situated within any city corporation, by a non resident Bangladeshi.

- registration, change of ownership or renewal of fitness of a car, jeep or a microbus as defined by the Motor Vehicles Ordinance, 1983.

- sanction of loan exceeding five lakh taka to a person by a commercial bank or a leasing company.

- issue of credit card.

- issue of practicing license to a doctor, a chartered accountant, a cost and management accountant, a lawyer or an income tax practitioner.

- giving ISD connection to any kind of telephone.

- registration of a company under the Companies Act, 1994 in respect of sponsor director.

- submission of application for a license as a Nikah Registrar under the Muslim Marriages and Divorces (Registration) Act, 1974 (LII of 1974).

- applying for or renewal of



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