

ROHINGYA PERSECUTION Lawyers seek ICC probe

STAR REPORT

Lawyers representing 400 Rohingyas are urging the International Criminal Court (ICC) to investigate the Myanmar military, arguing that the crime will continue and spread to other ethnic groups without getting justice for what has happened to them.

"Without accountability, without focus on bringing these perpetrators to book, then these types of crimes will continue and are continuing in Myanmar as we speak," reported UK-based Sky News yesterday, quoting human rights lawyer Wayne Jordash as saying.

"I have little doubt that they continue because the Myanmar authorities understand that legal options are narrow and bad state actors will shield them from accountability."

Over 700,000 Rohingyas fled military crackdown in Myanmar's Rakhine State since late August last year. Doctors Without Borders said at least 6,700 Rohingyas were killed in a

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A test train arrives at the newly built Pabna Railway Station yesterday. People of all walks of life gather on the platform, inset, to see the train. The town never had a station of its own and the nearest station was Iswardi. The Iswardi-Pabna rail line is expected to open soon.

PHOTO: STAR

ICC likely to allow investigation

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there is the possibility of an appeal to set the law clearly, he said.

"I remain very hopeful that the jurisdiction will finally be allowed," said the British jurist during an email interview with The Daily Star.

Sir Nice is former deputy prosecutor of the ICC for former Yugoslavia and the principal prosecution trial attorney in the case against Slobodan Milosevic, the world's first president to be indicted for war crimes by an international criminal court. He also worked in Myanmar and around 10 years ago and contributed to the report "Crimes in Burma" which was prepared in 2009 by Harvard Law School. Their examination of UN documents showed a range of human rights and humanitarian law violations in Myanmar since 1992.

On April 9, ICC prosecutor, Fatou Bensouda, asked the Hague-based court to rule whether it had the jurisdiction over deportation of the Myanmar nationals, a possible crime against humanity. On May 7, ICC wrote a letter to Bangladesh seeking its observations on the matter.

Against this backdrop, The Daily Star approached Sir Geoffrey Nice, who made the above observations.

Below, we have published the full interview ad verbatim.

DS: Myanmar is not a party to the Rome Statute, but Bangladesh, a country which is the victim of forced deportation, is. ICC has written to Bangladesh seeking its opinion. Is there any precedence of such investigation by the ICC? What's your opinion?

Nice: The issue has been discussed from time to time but is the subject of no prior ruling. I have read the Prosecutor's application, which seems, to me, very well drafted. Although there may be

counter arguments to come they are bound to be from Myanmar, or from countries fearing they may be in Myanmar's position at some point, which would not want to lose the "advantage" they have of not being parties to the Rome Statute. Their arguments are bound to appear self-serving. The application by the Prosecutor would look to me likely, or even very likely, to succeed, not least because the statute and all the law assembled in her Application make the necessary interpretation possible.

AND because all moral right MUST be on the side of allowing the Prosecutor to go ahead and investigate. Innocent people are driven from their homes across a border to a foreign land by a crime against humanity and expulsion (as opposed to internal displacement) which is only complete when the victims set foot on that foreign land. It would look like an affront to common sense and something of a lawyer's trick on the public for the court not to have jurisdiction.

DS: As there is no such precedence, how can the ICC go ahead?

Nice: The statute is sufficiently flexible and undefined in parts to allow the interpretation the prosecutor seeks. Even if the application to the president of the pre-trial division does not succeed immediately, or is refused by her, there is the possibility of an appeal to set the law clearly, and I remain very hopeful jurisdiction will finally be allowed.

DS: How should Bangladesh respond to the letter from the ICC?

Nice: It can respond in any way that its lawyers' advice and it chooses, and that could be to present the arguments against saying there is jurisdiction. I have no knowledge of the likely internal political sensitivities that could incline

Bangladesh to be obstructive or the external relations with its other neighbour India that could incline it to be obstructive. But even if it makes arguments against jurisdiction, those arguments should not affect the correct legal decision being reached; Bangladesh may have particular practical problems/issues it can raise, but the underlying question is a purely legal one.

DS: The UN Security Council (UNSC) has so far not referred Myanmar's situation to the ICC because of oppositions from veto powers China and Russia. Its chance is also slim. Therefore, trial of the atrocious crimes mostly depends on the ICC. What is your opinion?

Nice: The power of the Security Council (SC) to refer crimes concerning situations in non-ratifying countries to the ICC has always been subject to the actual or threatened veto of any member of the Permanent Five (Russia, China, US, France, UK). This has meant that efforts have not been made to refer North Korea to the ICC because it was known China would veto. Similarly, even before the present problems for Burma, as then more commonly described, it was hoped the generals could be brought to book.

It has always been thought that the US would veto any effort to get Israel directly to the ICC (although there have been some self-referrals by the Palestinian Authority that have shown the power of veto is not everything in certain cases). But the awful truth is that the Security Council -- by what it is expected to do -- stands in the way of victims such as the Rohingya Muslims and many others getting international justice and accountability of the very worst of criminals.

All we can do is to keep showing the SC for what it is and hoping one day it will be shamed into better action or be reformed. I and another raised the possibility of genocide being a possible consequence for the Rohingya about four years ago, and a consequence, if it happened. Others I know were raising similar issues then despite a deal of international indifference. But it was only when investigations that could not be overlooked, that the Rohingya became the subject of worldwide understanding and sympathy and this sentiment may well be behind the prosecutor's willingness by her application to get as close as she may to China by raising the possibility of having individuals in Myanmar state brought to court.

DS: Evidence collection of the crimes against humanity is an important factor.

However, Myanmar authorities have allegedly destroyed evidences of atrocities. What is your suggestion?

Nice: Well, there has also been a great deal of witness testimonies taken by many individuals. Preparing dossiers of witness statements now, when the prospect of an ICC investigation and trial is uncertain, may seem like work that could be wasted. Not so. Once in the file, the material can be retrieved as soon as investigators or lawyers want.

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President pardons top terror Joseph

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"The president pardoned him. We released him upon receiving the order," Jahangir Kabir, senior jail superintendent of Dhaka Central Jail in Keraniganj, told The Daily Star yesterday.

While his whereabouts are not known, Home Minister Asaduzzaman Khan yesterday told reporters that Joseph was supposed to leave the country for medical treatment.

In December 2012, another infamous criminal Bikash Kumar Biswas got out of Kashimpur Jail-2 on bail and fled the country.

Law enforcers believe he runs organised crime rackets from abroad.

The home minister yesterday seemed to know little about the matter.

"He applied mentioning that he was very ill. About one to one and a half years of his sentence remains. He filed a mercy petition. The honourable president must have granted the petition."

"The president permitted him to be treated abroad. I know this much," he

told reporters at his secretariat office.

Asked for comment, noted human rights activist Sultana Kamal said, "It falls under the purview of the president's powers. We can only hope that he took the decision upon much consideration."

She also hoped that the presidential clemency would bring a positive change in Joseph and prevent him from causing harm to anyone in future.

A jail source said the process of his release apparently began on March 31 when he was shifted to a cabin on the 9th floor of the new building of the DMCH.

No prisoner without a major disease is kept there. Prisoners are usually kept at the Cabin Block on the second floor, the officer added.

"It has been done to free him secretly and to dodge the law enforcement and intelligence agencies," he said, seeking anonymity.

A Dhaka court on April 25, 2004, sentenced Joseph to death for killing Freedom Party leader Mostafizur Begum applied to the home ministry

Rahman Mostafa in 1996.

Joseph's elder brothers Haris Ahmed and Anis Ahmed were also given life sentence for the murder. Haris and Anis remain absconding.

The verdict was upheld by the High Court.

On December 9, 2015, the Supreme Court commuted the death sentence of Joseph to life sentence.

Joseph was accused in 10 other cases of extortion, and possession of illegal firearms.

A lawyer for Joseph in 2015 said his client served over 18 years in jail and he had been in the condemned cell of Dhaka central jail for over 10 years.

Joseph also said a life sentence meant 30 years in prison as per the jail code and the period had been reduced considering the convict's good behaviour in prison.

Jail officials said the process of presidential clemency for Joseph started on June 7, 2016 when his mother Renuja Begum applied to the home ministry

for commuting Joseph's sentence. Two weeks later, the appeal was sent to the law ministry for opinion.

Sources in the jail said Joseph was treated well inside the prison. He had stayed comfortably at Bangabandhu Sheikh Mujib Medical University (BSMMU) hospital for "back pain". It was reported in newspapers that he spent his hospital days gossiping with friends.

Joseph was a Chhatra League leader of Mohammadpur. He entered politics under the guidance of his elder brother Haris Ahmed. He later joined the infamous Subrata Bain's gang known as Seven Star. He exerted his power in the city and became one of the top criminals of the country.

Soon after the general elections in 2001, the BNP-led government announced a list of 23 most wanted criminals and a reward ranging between Tk 50,000 - 100,000 for each of their arrest.

Myanmar continues

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said, Myanmar authorities were "doubling down" by opening a new front in Kachin State.

A new offensive by the Myanmar government against Kachin rebels who have fought for decades for a greater autonomy has raised fears of a humanitarian crisis in Kachin mirroring the one in Rakhine State. The rebels are largely a Christian minority group.

In November last year, the US declared that violence against the Rohingya in Myanmar's Rakhine State constituted ethnic cleansing, and the US later imposed sanctions.

Referring to his recent visit to Bangladesh, Brownback said, "I visited several of the refugee camps in Bangladesh about a month ago. The situation is dire. We must do more to help them, as they continue to be targeted for their faith."

About his visit to Myanmar, the US

envoy said he had asked for access to Aung San Suu Kyi or – and to go to northern Rakhine State, where the problems have been most acute, although there's plenty of problems in various places in Myanmar.

"And I was denied those accesses. So they might have let me in, but they weren't allowing me to have the meetings or access to the places I needed to go," he added.

The US envoy for global religious freedom said he does not think people have seen progress taking place in Myanmar. "If anything, the administration there is doubling now its effort and going after the Kachin in the northern part of the country, and the refugee numbers are increasing in the northern part now of Burma [Myanmar]," he added.

Narrating about the ongoing plight of Rohingyas, he said it's a terrible situation that requires the world's attention. "There is a lot of world

attention on it, but I think there needs to be more action from the world."

"You continue to see, as I noted, a horrific situation that fortunately has been reported on in Bangladesh of all the refugees coming out, and the international community and the international press has done a great job reporting this," said the Trump administration official in response to a question.

"Unfortunately, now you're even seeing them step up again in the north, in the Kachin area, and the number of refugees there has increased in recent weeks as the fighting there has expanded of another ethnic religious minority being pushed out of the country and their normal areas."

The International Religious Freedom report details the status of religious freedom in nearly 200 foreign countries and describes US actions and policies in support of religious freedom worldwide.

On Bangladesh, the US report said the Bangladesh government has continued to provide law enforcement personnel at religious sites, festivals, and events considered to be possible targets for violence.

The report, quoting press reports, said the investigation into the 2016 killings of six secular bloggers, online activists, writers, and publishers remained "inconclusive."

In November last year, a mob, angered by a Facebook post reportedly demeaning Islam, burned and vandalised approximately 30 houses belonging to Hindus in the northern district of Rangpur.

Fitra fixed

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been set at Tk 2,310 per head this year, taking into account the market prices of flour, dates and other essential items. Fitra can be given in cash or in kind, said a press release of the foundation.

Poor sales for fear

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This opinion was not his alone.

The Daily Star correspondent talked to several ticket buyers of various destinations and people at ticket counters of bus service providers in Gabtoli and Kalyanpur. All of them had the same opinion.

Ticket sale was half of last year's, operators said, adding that most of them sold only 25-30 percent of the total tickets available until noon. There was little crowd in the morning but that disappeared after 9:00am.

Ticket sellers and buyers blamed the poor condition of the roads.

Some opined that yesterday was a working day and many had not gotten their salaries, being the 30th of the month, and bonuses. That's why some people could not buy tickets.

However, a number of passengers, including Karimul, refuted this saying money was never an issue in the past.

Hanif Paribahan's spokesperson Monwar Hossain in Gabtoli's Balurmath area said, "We could sell only 30 percent of the advance tickets until 12:00pm. We sold twice as much last year in the same time."

Train's advance tickets for June 11-15 will be sold from tomorrow. However, there was a big crowd at Kamalapur Railway Station trying to get tickets for June 10 or earlier.

Mahbub Prodhan of Shyamoli Paribahan in Kalyanpur said they also sold fewer tickets than previous years.

Ramesh Chandra Ghosh, managing director of Shyamoli Paribahan, told the newspaper that they were not selling tickets for all their buses considering the poor road condition. "If we find the road situation to be good, we will sell tickets of those buses later on," he added.

The authorities of a few bus operators said people nowadays buy tickets online which could be a reason for fewer people queuing at counters.

A number of ticket buyers yesterday alleged that the bus operators were selling advance tickets at Tk 30 to Tk 120 more than the regular fare.

"I had to buy a ticket for Joypurhat for June 12 for Tk 520 from Hanif Paribahan but the regular price is Tk 400," said Aminul Islam.

Hanif Paribahan General Manager Mosharref Hossain said, "We are selling at the price fixed by Bangladesh Road Transport Authority (BRTA)." He claimed that they used to take less than the fixed fare before.

BPWA'S FEARS

Bangladesh Passengers' Welfare Association fears Eid holidaymakers will face the same sufferings like in the previous years as the roads, railways and waterways are still not ready to

tackle such a huge rush.

Around 50 million people would make around 150 million trips inside the country in six days before and after the Eid, it estimated.

Only 44,374 buses, 27,962 mini-buses, 4,221 launches, 92 inter-city trains, 73 local trains, and 14 special trains would be in service, it added.

The association yesterday