

SPECIAL COURT FOR SIERRA LEONE
PRESS AND PUBLIC AFFAIRS OFFICE

PRESS CLIPPINGS

Enclosed are clippings of the latest local and international press on the Special Court and related issues obtained by the Press and Public Affairs Office as of:

Thursday, November 17, 2005

The press clips are produced Monday to Friday.
If you are aware of omissions or have any comments or suggestions please contact
Ibrahim Tommy
Ext 7248

Contents

International News:

60 Years After Nuremburg Trials, Legacy Remains	Page 3-4
<i>Reuters</i>	
Liberian's President Burden No. 1: Extradite Taylor, Or...	Page 5-9
<i>The Analyst</i>	
Liberia: Christian Media Group Deplores EU'S Taylor Hand-over Demands	Page 10
<i>BBC Monitoring</i>	
Nigeria: War Crimes in Africa	Page 11-12
<i>This Day</i>	
The Conflict in Nepal: Gender and Human Rights Perspectives- 2	Page 13-27
<i>Peace Media Research Centre</i>	

60 years after Nuremberg trials, legacy remains

Wednesday, November 16, 2005 12:43:40 PM ET

By Alan Elsner

WASHINGTON (Reuters) - Sixty years after the opening of the Nuremberg trials of top Nazis following the Second World War, the tribunal's legacy reverberates loudly in international human rights law and in the trial of former Iraqi President Saddam Hussein.

The first Nuremberg trial of 22 top Nazis, including Hermann Goering, Rudolf Hess and Joachim von Ribbentrop, began November 20, 1945. Three of the defendants were eventually acquitted entirely and 11 others acquitted of some of the charges against them. Twelve were sentenced to death, others to long prison terms. Goering was convicted but committed suicide.

"Nuremberg introduced the concept that individuals and states were subject to international law, including limits on sovereignty," said Henry King, one of the original Nuremberg prosecutors, now 86 and still active as a law professor at Case Western Reserve University in Cleveland, Ohio.

"In a sense, it marked the coming of international law as a force to be reckoned with on our planet," he said.

A recent seminar at Georgetown University Law Center explored other lasting legacies of Nuremberg. The tribunal rejected, now and forever, the ability of people accused of war crimes to argue that they were "just following orders." It established genocide as a recognized crime and it also defined the planning, preparing, initiating and waging wars of aggression as a crime, although it provided no definition of aggression.

"Nuremberg modernized the laws of war and created a denominator under which all citizens of the world could live and be judged. In doing so, Nuremberg launched the international human rights movement," King said.

Ben Ferencz, 85, who was chief prosecutor at the follow-up trial in 1947 of 24 leaders of the Nazi mobile killing units known as "einsatzgruppen," recalled asking defendant Otto Ohlendorf, who headed an extermination operation in the Crimea, how he justified killing some 90,000 unarmed civilians.

"Ohlendorf said it was self-defense. He said, 'We knew they were planning to attack us and therefore it was prudent for us to preempt them and attack them'," Ferencz said, using words that have an eerie resonance today.

KILLING BABIES

How did Ohlendorf justify killing babies? "He said, one day, they would grow up and be a threat. It was therefore necessary to kill them before they could do so. But this idea of killing people in anticipated self-defense -- the judges said this was no defense," Ferencz said.

Scholars see Nuremberg as the godfather of all subsequent human rights trials, from the prosecution of former Serbian President Slobodan Milosevic in The Hague, to the trials of those accused of genocide in Rwanda or atrocities in Sierra Leone and East Timor, to the Saddam Hussein trial which formally opened last month.

In fact, Saddam was the first person since Nuremberg to be charged with the crime of aggression, said Case Western Reserve law professor Michael Scharf, who has taken part in training sessions for Iraq judges involved in the Saddam trial.

SADDAM'S RIGHTS

"Saddam will have rights that none of his victims had because of the Nuremberg precedent," Scharf said. Still, the Saddam trial remains highly problematic following the assassination of two lawyers assigned to defend some of the former Iraqi leader's co-defendants.

Saddam, like the Nuremberg defendants before him, has challenged the court's legitimacy on the basis that it is meting out "victor's justice." Even in Germany, it took decades before a majority of the population accepted the legitimacy and fairness of Nuremberg.

Annual polls conducted in Germany by the State Department through the 1950s which were kept secret until 2002 found that as late as 1958 around 90 percent of Germans thought that the trials had been unfair. It was only in the 1970s that German opinion changed decisively.

David Crane, former chief prosecutor for the special court for Sierra Leone, where nine individuals are currently on trial for atrocities in the civil war that ripped apart the West African nation in the 1990s, said he was very much aware of the legacy of Nuremberg when he arrived in the Sierra Leone capital of Freetown to begin his work in 2002.

"How similar Nuremberg and Freetown were when I arrived," he said, recalled the physical destruction of both cities. "The smell of death was literally in the air, and it was the entire three years I was there."

The Sierra Leone trial has added two new crimes against humanity to the lexicon: the forced recruitment of children under the age of 13 to an armed conflict and the forced marriage of women.

Perhaps the most important outgrowth of Nuremberg was the establishment in 1998 of the International Criminal Court, created to promote the rule of law and ensure that the gravest international crimes do not go unpunished.

"Nuremberg begat the Yugoslavia tribunal which begat the Rwanda tribunal which begat the special court for Sierra Leone and East Timor and now the permanent International Criminal Court," said Scharf.

Ironically, the United States, which insisted on the creation of Nuremberg, has fiercely opposed the ICC, arguing that it violates U.S. sovereignty and independence.

Despite U.S. opposition, Mexico on October 28 became the 100th nation to ratify the statute establishing the court.

"This court is not going away. It's here to stay," said David Scheffer, a former U.S. ambassador at large for war crimes issues. His advice to the Bush administration: "Get used to it, get over it, get on with it."

Liberia; The President's Burden #1: Extradite Taylor, Or... Africa News November 14, 2005 Monday

Copyright 2005 AllAfrica, Inc.
Africa News

November 14, 2005 Monday

LENGTH: 2245 words

HEADLINE: Liberia;
The President's Burden #1: Extradite Taylor, Or...

BYLINE: The Analyst

BODY:

The Liberian presidency over the last half century conjures up images of superior presidency and all the power trappings that can be mustered by 'monarchic democracy', of socio-economic affluence amongst the ruling elites that ignored creeping mass poverty and illiteracy, of presidential yachts, and of wasteful state banquets that played the 'love of people' refrains.

It is these images, which had seeped into the psyche of most Liberian politicians, for the most part rather than strategic variation in agenda and priorities, that drew 22 Liberians into the October 11 presidential race.

But there is no doubting that these images have been swept away in recent changes in the aura of Liberia's political governance such that they are no more than mirages.

For, it seems clear that rather than basking in the luxury of power trappings, the Liberian post-war president is bound to be caught between the scissors, battling at two fronts that appear diametrically opposed in priorities.

In the domestic front, the president will be confronting mass poverty, soaring unemployment, and early restoration of basic social services: water, electricity, health and education facilities. In the international front where impunity is such a deadly menace to stability in Africa and the ECOWAS subregion, the early extradition of Charles Taylor to face his accusers in neighboring **Sierra Leone** seems a priority.

Interestingly, the success of the domestic program will depend on massive international support. So where is the priority, is the apparent catch-22 situation.

Will the electorates listen and bear with the presidency in getting the Taylor factor out of the way that may occupy the agenda of the Executive Mansion from the word go? The European Union, the Security Council of the United Nations, and some members of the U.S. Congress have no doubt about what constitutes the new president's priority.

The Analyst's Staff Writer has been looking through the files and at messages from Washington.

The UN Security Council, the European Union, and the Chair of the House Subcommittee on Africa, Rep. Ed Royce of California, say tackling impunity will pave the way for international cooperation with the incoming Liberian government.

Statements issued by the powerful global and regional organizations and influential member of one of the most powerful parliaments in the world are unanimous that the place the new president must begin in tackling Liberia's problems is fighting impunity by being an active part of efforts to send Charles Taylor to the tribunal in **Sierra Leone** as well as fighting domestic corruption.

This suggests to political commentators that unlike what most Liberian politicians had thought, there will be no early pageantry, fanfare, and picnicking as it were in the past when the Executive Mansion played the game the way it saw fit while the society rotted away in squalor and the rule of law gave in to expediency and the passion of the power that was while the international community played the toothless bulldog.

In the words of Mrs. Ellen Johnson-Sirleaf, it means that hard decisions befitting a one-term president will have to be made.

In a statement last week in which the European Union Observer Mission to Liberia praised the conduct of the Liberian runoff polls, Chief Observer Max van den Berg, said in order to create a democratic and secure future for Liberia, the new government, Senate and House of Representatives must end the climate of impunity by cooperating fully with the international community to ensure that former president Charles Taylor and others accused of war crimes are swiftly brought to court.

Unless that is done and done in line with the global peace agenda of the EU, Berg seemed to have said, Liberia has a narrow chance of benefiting from EU's assistance program for the reconstruction of Liberia.

He however noted that the EU would require the new leaders to also put the people of Liberia first by showing zero tolerance for corruption, ending impunity, giving priority to education and the United Nations millennium goals.

"If they do this, then these historic elections, held in an environment free from fear, could mark the starting point of a mutual contract between Liberia and the international community for the future peace and development," he said.

Extraditing Taylor seems secondary to war-weary Liberians who are keener on the early restoration of basic social services like electricity, water, and education and health facilities than on a wider question of global and regional security.

But what must be noted, observers say, is it is not only the EU that believes in the priority of the Taylor factor. In a resolution passed unanimously last Friday, the United Nations Security Council stressed the importance of the extradition of Taylor to **Sierra Leone** in a frontline fight against impunity.

"Acting under Chapter VII of the Charter of the United Nations, the Security Council] decides that the mandate of the United Nations Mission in Liberia (UNMIL) shall include the following additional element: to apprehend and detain former President Charles Taylor in the event of his return to Liberia and to transfer him or facilitate his transfer to **Sierra Leone** for prosecution before the **Special Court for Sierra Leone** and to keep the Liberian Government, the Sierra Leonean Government, and the Council fully informed," says Security Council Resolution 1639(2005) passed last Friday during the 5304th meeting of the Security Council.

The resolution seems directed at UNMIL with no bearing on the incoming government but not if parallel messages coming from the EU and the US Congress are taken into account.

The EU expects an early request for and extradition of Taylor to **Sierra Leone** by the incoming government of Liberia, apparently relying on the position of the government of President Olusegun Obasanjo that Nigeria will release Taylor only to an elected government in Liberia.

Analysts say Resolution 1639(2005) may have no objective other than to prepare for Taylor's arrest and transfer in the event that the incoming government of Liberia succeeded in prevailing on Nigeria to send him to Liberia.

This seems apparent when a message from Congressman Ed Royce to presidential front-runner Ellen Johnson-Sirleaf is considered.

"I congratulate Mrs. Johnson-Sirleaf and the Liberian people on this electoral achievement. The election was historic. This exercise in democracy represents an opportunity for a new start for Liberia, and for Charles Taylor to be brought to the bar of justice," Royce said in a letter dated November 11, 2005.

Royce believes any civilian government in Monrovia is bound to face security bottlenecks and hurdles as long as Taylor remains in the custody of Nigeria while influencing political developments in Liberia.

He believes, without elaboration, that a Johnson-Sirleaf presidency is most likely to handle the Taylor factor: "Even in his Nigerian asylum, Charles Taylor is a threat to the people of Liberia. As long as he remains out of the reach of the **Special Court**, the future of West Africa will be in jeopardy. History would look well on Johnson-Sirleaf if she uses her new status to press President Obasanjo to immediately transfer Taylor to **Sierra Leone**."

He iterated Congress' willingness to work with the Liberian government to confront the Taylor factor in addition to the many challenges facing Liberia and urged her to cooperate in those regards.

"The United States and many other governments strongly support the Court and its mandate, and I urge you to do likewise. In my view, progress in Liberia, and the international community's considerable investment in your country, remains in jeopardy as long as Mr. Taylor is permitted to elude justice," Rep. Royce said.

The Congressional Africa Subcommittee chair recalled Nigeria's reluctance to extradite Taylor in spite of numerous of calls from the U.S. Congress to do so and hoped that the new Liberian government would do so.

"Nevertheless, I request that you call for the Nigerian government to deliver Mr. Taylor immediately to the Court, so that justice can be done and Liberia can enjoy better prospects for prosperity," he noted.

While calling on Madam Sirleaf to turn her "strong democratic mandate" into an instrument to fight impunity, he made it clear that the issue of Taylor would be paramount to U.S. relations with Liberia.

"Please understand that I do not make my request of you lightly. I chaired the Subcommittee on Africa for eight years, focusing much of my attention on West Africa. In my view, progress in Liberia, and the international community's considerable investment in your country, remains in jeopardy as long as Mr. Taylor is permitted to elude justice," Royce emphasized.

Just as Ms Elise Keppler, a counsel of the International Justice Program of Human Rights Watch, is elated by the position of the Security Council, calling it a message that Obasanjo must get, back home the message seems nothing less than the president's burden number

one considering what prior priorities had been set.

This big international concern about Taylor, though, played neither in the security consciousness of the average Liberian nor in the agendas of public office seekers.

The fact is politicians and ordinary Liberians have not viewed the Taylor factor as crucial to the nation's stability. The need to wipe impunity and eradicate corruption showed as major campaign issues, but they were not tied to Taylor and the Sierra Leonean court, analysts observed.

How this factor will take the front seat of the priority program of the new government, they say, is a major question especially in view of seeming consensus that Liberians will not go into the business of court litigation to settle issues related to war atrocities.

In Accra in 2003, delegates opted for informal arbitration of the cruelty of the Liberian civil war under the guidance of a Truth and Reconciliation Commission (TRC) and international facilitators including the U.S., EU, and the UN concurred.

With this understanding which was not called in for review or questioned at any time during the life of the NTGL, Chairman Bryant joined the international community in commending Nigeria for removing Taylor to facilitate the peace process in Liberia, implicitly dismissing suggestions that Liberia must request the extradition of Taylor in the face of Nigeria's intransigence.

Perhaps following Bryant's footsteps, and taking care not to anger Taylor's followers in the country whose support was crucial in presenting one of the presidential candidates as a unifier, no presidential contender including Madam Sirleaf, pledge support to international efforts to extradite Taylor upon assuming power.

"We will study the situation. We will take a decision in line with the interest of the Liberian people when we get there," Mrs. Sirleaf is recalled as saying when she was asked by journalists to comment on Taylor's extradition to **Sierra Leone**.

This position, which has not changed, was repeated by other candidates for president, including George Weah of CDC.

Now that the next president is likely to happen onto a catch-22 situation where domestic expectations versus international security concerns, where the former relies heavily on the latter for form and substance, and where exclusive concern for the latter will stir up domestic tension, the question many are asking is what is the proper way forward?

Already, followers of Taylor, sensing that the extradition issue, may crop up shortly after the elections strategically positioned themselves where they hope to influence the position of the new Liberian government.

Allen, Goodridge, and former first lady, Jewel Howard-Taylor, are securely in the camp of UP. NPP's VIP Paygai moved into the camp of CDC while NPP's presidential candidate, Massaquoi, took a center position to monitor the situation, with many say, sympathy for CDC.

During the horse-trading the followed the first round election, it needs no saying that the issue of security played high. How the compromises reached and the promises made will affect the issue now coming up remains to be seen, observers say.

What remains to be seen also, analysts say, is which side the coming government will dare annoy: flout international request and press ahead with the reconciliation agenda that has no place for Taylor and his **Sierra Leone** court, lost international support for reconstruction.

And risk tension amongst the population, or hearken to the call of the international community, get the support EU threats to withhold in the absence of cooperation, tackle domestic problems, but risk allegations of betrayal, insincerity, and vendetta peddling and therefore been labeled as incapable of playing the crucial unifier?

Many have no doubt that the president is bound for trouble, but analysts say there is not much of a problem if the international and domestic agendas of the incoming president are counterbalanced to produce effects that address international concerns without necessarily upsetting the domestic agenda of reconciliation and the provision of basic social services.

How that will be achieved remains largely a theory that begs form, substance, and smart implementation mechanism.

This though makes the Liberian post-war presidency not the usual playground for unbridled power play but the ground where the faint-hearted and undecided dare not tread. Meanwhile, UP leads by 59.6%, while CDC follows with 40.4%

LOAD-DATE: November 14, 2005

*LIBERIA: CHRISTIAN MEDIA GROUP DEPLORES EU'S TAYLOR HAND-OVER DEMANDS BBC
Monitoring International Reports November 14, 2005*

Copyright 2005 Financial Times Information
All rights reserved
Global News Wire - Asia Africa Intelligence Wire
Copyright 2005 BBC Monitoring/BBC
BBC Monitoring International Reports

November 14, 2005

LENGTH: 131 words

HEADLINE: LIBERIA: CHRISTIAN MEDIA GROUP DEPLORES EU'S TAYLOR HAND-OVER DEMANDS

BODY:

Text of report by independent Liberian Star Radio on 14 November

A Christian media group says it is early for the international community to start making demands on the new government.

The Christian Media Centre observed that early demands might reduce Liberia to another crisis.

The centre said the run-off election nearly polarized the country.

It advised that reconciliation and recovery should be the key focus of the new government.

The centre reacted to statement from the EU that the new government should ensure the handover of former President Charles Taylor.

The UN **Special Court** in **Sierra Leone** indicted Mr Taylor for his alleged role in the country's civil war.

Source: Star Radio, Monrovia, in English 1200 gmt 14 Nov 05

BBC Monitoring

JOURNAL-CODE: WBMS

LOAD-DATE: November 14, 2005

Nigeria; War Crimes in Africa Africa News November 14, 2005 Monday

Copyright 2005 AllAfrica, Inc.
Africa News

November 14, 2005 Monday

LENGTH: 1053 words

HEADLINE: Nigeria;
War Crimes in Africa

BYLINE: This Day

BODY:

"In the prospect of an international criminal court lies the promise of universal justice. That is the simple and soaring hope of this vision. We are close to its realisation. We will do our part to see it through till the end. We ask you to do yours in our struggle to ensure that no ruler, no state, no junta and no army anywhere can abuse human rights with impunity. Only then will the innocents of distant wars and conflicts know that they, too, have rights, and that those who violate those rights will be punished." - Kofi Annan, United Nations Secretary-General

In the last 50 years, there have been many instances of crimes against humanity for which no individual have been held accountable. Over the last 10 years at least eighteen countries in Africa have been consumed by war, usually internal. Africans have suffered catastrophic war crimes and horrific human rights abuses. The 1994 Rwandan genocide took nearly a million lives. **Sierra Leone** suffered a war whose signature atrocity was forced amputations, with many child victims. Millions have died due to the civil strife in the eastern Democratic Republic of Congo over the last several years. Civil war in Sudan between North and South has taken over two million lives.

More than two million people have been forced from their homes and at least 180,000 have died in the conflict between the government and Darfur rebels. The conflict began in early 2003, after a rebel group began attacking government targets, claiming that the region was being neglected by Khartoum. Despite the body of treaties, laws and conventions aimed at protecting civilians during times of war, civilians are more and more often the targeted by both state and non-state actors. The methods they employ include mass slaughter, the use of terror, ethnic cleansing, and forced migration. Wars on the Africa continent are increasingly fought by forced recruits, often children who are ripped away from their families and turned into killers.

In armed conflicts in Mozambique, Liberia, El Salvador and other countries, there has been tremendous loss of civilian lives, including horrifying numbers of unarmed women and children. Massacres of civilians continue in Algeria and the Great Lakes region of Africa.

If a storm can be described as perfect, then the war in the Democratic Republic of Congo (formerly Zaire) in the second half of the 1990s was the "perfect war". Precipitated by the 1994 genocide in Rwanda and the fall of the West's client kleptocrat, President Mobutu, and his rotten state, the war in DR Congo was dubbed Africa's First World War. It directly involved the armed forces of six neighboring states. It drew in factions and rebel groups from other African wars, the remnant armies of defunct neighboring regimes, and the usual crowd of international profiteers, would-be peacemakers and humanitarians. It was closely

connected with armed conflicts in several neighboring countries, including those in Rwanda, Burundi, Uganda, Central African Republic, Congo Brazzaville, and Angola. According to one estimate published in 2003 the war may directly and indirectly have caused the deaths of over 4 million people in DR Congo since 1996. As has become increasingly common in Africa the victims were almost all civilians.

In the Horn of Africa, Somalia was still without a central government almost a decade after the fall of the last one (the Siad Barre regime which had been backed and armed alternately by both sides in the Cold War). The vacuum of state authority in Somalia left the country in a state of low level conflict and chronic economic weakness, on the one hand vulnerable to external interference and on the other a source of regional instability. To the north of Somalia, border skirmishes between Ethiopia and Eritrea developed into full scale war in 1999.

At the other end of the continent, in Angola, another war that had in an earlier phase been fomented by Cold War rivalry was still raging. Now deprived of their superpower sponsorship, but aided by international businesses which continued to buy the Angolans' oil and diamonds and sell them weapons, the leaders of both sides (MPLA government and UNITA rebels) were plundering the country to support their war efforts and to fill their foreign bank accounts. In a country fabulously rich in natural resources, including agriculture, the majority of the peasant population were living in desperate poverty, many of them living on food handouts from the international humanitarian relief system.

Conclusion

One of the primary objectives of the United Nations is securing universal respect for human rights and fundamental freedoms of individuals throughout the world. In this connection, few topics are of greater importance than the fight against impunity and the struggle for peace and justice and human rights in conflict situations in today's world. The establishment of a permanent international criminal court (ICC) is seen as a decisive step forward. Even though there were various treaties in the 19th and 20th centuries on the laws of war, the 20th century was the bloodiest in history because most perpetrators of war crimes against humanity throughout history have gone unpunished.

To combat war crimes in Africa, two key and indeed related components are urgently necessary - the first is ensuring accountability for serious human rights crimes, and the second is implementing preventive strategies to detect, stop and/or mitigate situations with the potential to develop into systematic war crimes.

Impunity for atrocities committed in the past sends the message that such crimes may be tolerated in the future. Impunity or a failure of accountability also characterizes the current situation of former Liberian president Charles Taylor, on exile in Nigeria. Despite having commanded troops who perpetrated war crimes in Liberia, **Sierra Leone**, Guinea and Cote d'Ivoire, and despite having been indicted by the **Special Court for Sierra Leone** on 17 counts of war crimes and crimes against humanity, Charles Taylor is being shielded from justice by the Nigerian government. Perpetrators of war crimes should be prosecuted not celebrated. Only then will the foundation of democracy begin to take shape.

Fatima Waziri is a Legal/Programme Officer with the Human Right Law Service (HURILAWS)

LOAD-DATE: November 15, 2005

By: Mrs. Geeta Pathak Sangroula

Posted on: 11/16/2005

The Conflict in Nepal: Gender and Human Rights Perspectives-2

Mrs. Geeta Pathak Sangroula

Nepal has ratified (without any reservations) the sixteen major human rights treaties, including six principal treaties and nine ILO Conventions.

Despite these human rights framework justifying states' legal obligations, the situation of violation of human rights is rampant. The lack of accountability of those in authority provide immunity for perpetrators of human rights abuses; this sends a strong message to civilians that any attempt to question those in power or to raise principled objections to prevailing violations of human rights, even if presented non-violently, will result in retaliatory action.

The human rights records of all South Asian countries suggest that states treat their obligations under international human rights law with blatant disregard. In each of the countries, gross violations of civil and political rights take place on a regular basis. Torture, rape, deaths in custody, including custodial rape arbitrary arrests and detentions, summary executions, and "disappearances" are common occurrences. As conflict intensifies, "normal" rules and procedures of law enforcement, such as due process, become irrelevant to the methodologies of dealing with the conflict or the social and political tensions on the ground.

The law enforcement officers on the other hand are often found being involved in atrocities synonymous to the crime against humanity. In the context of Nepal, the case of Maina Sunuwar, a fifteen years old girl of Kavre District, arrested while coming from school. She was tortured, raped and subsequently killed by security forces (military). The force was under the command responsibility of Cornel Mr. Babi Chettri committed crime along with other two officers. This is one of the pathetic examples to mention. Although the army court convicted the perpetrators with the punishment of 6 months imprisonment and 50,000 (fifty thousands) fine, to be provided as compensation to the victim' family, the punishment is very nominal as compared to the uncompensated costs paid by the victims (both deceased and her family) and the crime committed by the persons holding such responsible positions.

There are several other atrocities reported where the security forces and the non-state armed forces have crossed all the limitations of humanity, means and methods of warfare guaranteed by international humanitarian legal guidelines, human rights laws, national laws and the principles of morality. The following are some examples showing the re-victimization of women and girls;

A 15 years old girl child of Sunsari District, belonging to a very poor family, was raped by six members of security forces.

A 14 years old girl child of Lahan, accused of being Maoist, was arrested and detained. Her helpless mother states "she was disappeared for one year and now I found her under arrest by the security force. I have seen her face pale and the mental and physical condition very weak. Please help her"

A mother along with seven days old infant was found dead in the school's ground floor's dark and cold room. According to the villagers, deceased husband was abducted by Maoist and she was forced to hide herself.

A mother of newly born baby (one month old) who was abducted from Baglung District by

Maoists was released after local people providing 'ten paathi' maize and 10,000 rupees demanded.

Maoists looted and abused a mother after three days of delivery of the child.

The opportunistic rapes, murder and other atrocities are equally seen increased during conflict. There are several instances where the perpetrators identified themselves belonging to either state security forces or the Maoists. The case studies also show how state and non-state armed forces take advantage of such situation and commit the crimes. The place of occurrences are seen both private, public and the armed forces' camp, police custody, victims' house or any other private or public places. Abduction is one of the most common methods of sexual abuse and other form of exploitation. A research conducted by UNICEF in Sierra Leone's conflict reports that 75% women and girls abducted by armed forces were sexually abused.

International Human Rights Standards against Gender-based violence:

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is a very comprehensive tool to protect and promote the human rights of women both in times of peace and conflict with the framework of 'substantive model of equality'. The substantive model of equality means not only the realization of rights but also the measures, including special measures for overall empowerment of women. Articles 1 to 5 can be viewed as guidelines for the thematic issues enshrined from articles 1 to 16 in this regard.

Article 1 provides three level framework; (a) the elements of discrimination, (b) consequences, (c) issues and areas of concern. The term 'discrimination' consists three elements; (i) distinction, (ii) exclusion or (iii) restriction. The term violence has not been explicitly mentioned in the convention; neither the issues such as rape, sexual harassment, domestic violence, that are the core concern of women's human rights. What is mentioned as an exception is only 'Article 6', talking about trafficking and exploitation of prostitution. In the due course of time, the committee on CEDAW realized the tension generated by the content. However, the spirit of article 1 to 5 of CEDAW provided the room for constructive interpretation including gender based violence and exploitation within the framework of discrimination.

The idea can be seen expanded in the General Recommendations (GR) number 12 and 19 eventually issued by the committee. GR 19 is landmark that provides a wide range of scope for gender based violence. It has recommended to the states parties to adopt legal and all other appropriate measures as per article 2 of the convention. The idea has been reaffirmed subsequently by the Vienna Declaration and Programme of Action adopted by the first world conference on Human Rights. And the theme 'Gender-based Violence' is institutionalized step by step from Declaration on the Elimination of Violence Against Women (DEVAW) up to the Beijing Declaration and Platform of Action.

The Four Geneva Conventions (GCs) and Additional Protocols are also seen contributory to protect the victims of armed conflict. The international humanitarian laws provide such protection following the principles of equality, humanity. Article 3 Common to Four GCs is worth to mention. In the case of women, the humanitarian further provides protection against rape, forced prostitution and any other form of indecent assault. And also, gives the special protection and care to pregnant women and mothers having dependent infants who are arrested, detained or interned for reasons related to the armed conflict with the utmost priority.

The law of war has always contained rules based on chivalry, humanity, and religious values

that were designed to protect noncombatants, especially women, children, and old men, who were presumed incapable of bearing arms and committing acts of hostility. The history of war and armed conflict occurred in Rwanda, Bosnia, Srilanka and many other countries evident the same. In the case of Rwanda and Bosnia however, brought some relief of subjective satisfaction, where, the adhoc international criminal tribunals for Rwanda and Former Yugoslavia, established by the UN Security Council in 1993 and 1994 respectively, have considered rape and other forms of sexual violence as torture, crime against humanity and the war crimes by acknowledging previously adopted principles, including command responsibility.

Armed Conflict: Area of concern of Beijing Declaration and Platform of Action (BDPA):

In the Beijing Declaration, 'women and armed conflict' was identified as one of the twelve critical areas of concern to be addressed by member states, the international community, and civil society. Paragraph 44 of the Platform for Action calls on: "governments, the international community and civil society, including non-governmental organizations (NGO) and the private sector," "to take strategic action," inter alia, in relation to the "effects of armed or other kinds of conflict on women, including those living under foreign occupation". A number of strategic objectives were adopted by the Conference towards the achievement of this goal. The Year 2000 marks the fifth anniversary of the Beijing Conference. The aftermath development of this conference resulted to the establishment of BBC (Beyond Beijing Committee) at national level comprising all the stakeholders including the civil societies.

Nepal has also established the BBC and done some homework following the guidelines given by the Beijing. Among the works yet done, the survey conducted in all five regions is worth to mention, which has reprioritized the area of concern. The noteworthy point is that in the time when the BDPA was adopted, armed conflict was the less prioritized in Nepal. While coming across to internal armed conflict, the issue has been reached into the climax.

Women in Peace Building:

With due consideration of the series of activities done by the international community i.e. UNIFEM, the Security Council has passed a landmark resolution 1325. The resolution recognizes the principle of the UN Charter, the previously adopted commitments of the BDPA and the outcome document of special session of the UNGA entitled "Women 2000: Gender Equality, Development and Peace for the 21st Century. Expressing the concerns towards civilians, particularly women and children, it recognizes the urgent need to mainstream a gender perspective into peacekeeping operations with the consolidated data on the impact of armed conflict on women and girls. It further emphasizes the responsibility of all states to put an end to impunity and to prosecute those relating to sexual and other violence against women and girls. It also invites the Secretary General to carry out a study on the impact of armed conflict on women and girls, the role of women in peace building, and the gender dimensions of peace processes and conflict resolution. Finally the resolution requests the Secretary General for mainstreaming gender dimension throughout peacekeeping missions and all other aspects relating to women and girls.

Nepal has also followed the guidelines of this resolution. The civil society with the help of UNIFEM, is carrying out several programmes in this regard.

International Concern regarding Peace and Security in Nepal:

Considering the severe situation of armed conflict in Nepal, the Commission on Human Rights has issued two most important agenda items number 9 and 19. Agenda Item 19 shows deep

concern about "the situation of Human Rights in Nepal including violations attributed to the security forces, in particular unlawful killing, all forms of sexual violence, forced displacement and disappearances, and attacks against the physical integrity and safety of political leaders and party activists, human rights defenders, journalists and others and also deeply concerned about the prevailing situation of impunity" (emphasis added).

The item strongly condemned "...unlawful killing, all forms of sexual violence and extortion committed by members of the communist party of Nepal (Maoist)". Further the Item calls upon the parties to the conflict to respect human rights and international humanitarian law, in particular common article 3 of the Geneva Conventions of 12 August 1949, as well as to act in conformity with all other relevant standards relating to the protection of civilians, particularly of women and children, and to allow the safe and unhindered access of humanitarian organizations to those in need of assistance. Finally the Item urges the Government of Nepal to take all necessary measures to prevent and put an end to extrajudicial and summary killings, all forms of sexual violence, enforced disappearances, arbitrary arrests, illegal incommunicado detention as well as torture and other cruel, inhuman or degrading treatment or punishment.

This Item is a lesson for Nepal that has shown a principle commitment towards major human rights instruments including four Geneva Conventions. Nepal has ratified all GCs, however the additional protocols and are yet to be ratified. The Additional Protocol II of the GC is a very important tool to protect the victims of internal armed conflict, which has complemented Common Article 3 of the GCs with the procedural guidelines. Nevertheless, the Four GCs and Additional Protocols already hold the status of customary international law; therefore, Nepal is obliged to adopt specific laws mechanisms and other preventive and protective measures. The existing frameworks of laws of Nepal do not address the victims of armed conflict with specific safeguards.

And also, there is an urgent need to ratify the Rome Statute for the International Criminal Court (ICC Statute) for the effective measures ending impunity with adequate and effective punishment to the perpetrators of crime against humanity that has explicitly covered the gender-based crimes like rape and other forms of sexual violence and exploitation. The ICC Statute has adopted the doctrine of complementarity that justifies prosecuting the perpetrators first at domestic level, and if failed to do so the ICC tries perpetrators within its jurisdiction. The ICC statute is also landmark for respecting victims' justice with the framework of compensation, rehabilitation and so on which is very much supportive to the victims in general and women victims in particular

Conclusion:

Conflict leads to militarization of the entire society. Conflict jeopardizes both the civil and political rights and the economic, social and cultural rights. Impact of conflict is directly associated with the issues of survival. The question of survival does not mean only not to be killed but also requires considering many other underlying issues relevant to humanity, dignity and subsistence. The ratio of vulnerability is seen increasing especially at the time of conflict, war and other emergency situations. The history is self evident of thousands of pathetic examples of human sufferings.

The process of militarization has a tremendous impact on the lives of civilians, especially women. The case of Gauri mentioned above clearly provides a clear picture how militarization was proved as terrorization. A gendered analysis of violence and militarization highlights the connections between violent conflict in the so-called private sphere of the home, and in the society at large. In internal armed conflict, the case of gender-based violence is seen being

transformed from triangular natured violence (family, community and state) to the rectangle shape of violence committed by family, community, state and non-state actors. The ratio of vulnerability is very high.

In Nepal, there are several instances where not only the civilian, but also the rebellion women have faced gender-based discrimination, violence and exploitation and the remedy for them is far from being achieved. Nepal has not followed its responsibility to respect, protect and fulfill the need of Nepalese people with the notion of equality, including affirmative provision. The concept of state responsibility requires protecting the people vulnerable from over all consequences but the state is failed to provide justice to victims. Though there are some instances where after continuous efforts of civil society, state has tried to patch up the wounds, on the one hand the same standards are not applied to all in equal footing, and, on the other hand, the patch up work is not adequate even to few.

To address the issues of conflict of Nepal, it is necessary to respect the human rights of all peoples, including gender dimensions. Human rights require that actions - of a legislative, administrative, policy or programme nature - are considered in light of the obligations inherent in human rights. A rights-based approach thus assumes the creation of an enabling environment in which human rights can be enjoyed. A rights-based approach also promises an environment which can prevent the many conflicts based on poverty, discrimination and exclusion. The independent human rights institutions like national human rights commission, in cooperation with the civil society, must play a key role to protect victims of conflict particularly focusing the gender dimensions.

Most importantly, the political actors, including Maoists who are most responsible for bloody war, should take lessons from this conflict how people are paying the cost of being Nepali, cost of being poor, cost of trusting and following them in the name of restoration democracy, full and equal enjoyment of human rights, prevalence of rule of law and of course looking for social justice.

Courtesy:The Telegraph.