

# Human Rights Abusers Must Stand Trial

By BIPIN ADHIKARI

The National Human Rights Commission (NHRC) addressed on 10 March 2004 its recommended *Minimum Immediate Steps for Human Rights Protection to His Majesty's Government*. After about two and a half months, it has again addressed minimum immediate steps for the Communist Party of Nepal (Maoist) to protect non-combatants according to international humanitarian law applicable to insurgency of non-international character. Both sets of recommendations are based on the main trends found as part of the ongoing work of NHRC since its effective establishment in the summer of 2000. The trend includes some of the gravest challenges to the human rights of the people of Nepal.

Over the last decade, the trend around the world is clear towards expanding the definition of what constitutes a human rights violation, to

include acts committed by non-state groups as well as states. It is certainly the case that the distinction between state and non-state armed group is often meaningless for the Nepalese people suffering in the current armed conflict. These abuses are, therefore, highly relevant to the NHRC mandate. NHRC

emphasized that armed opposition group like the CPN (Maoist) must also respect the principles of international law derived from established custom, from the principles of humanity and the dictates of public conscience. For this reason, NHRC believed that it is also important to reaffirm principles governing behavior of the armed opposition group in Nepal's situation of armed conflict.

There is a recent reference in this regard. The UN-backed war crimes court for Sierra Leone ruled on 31 May 2004 that former Liberian president Charles Taylor, a noted warlord blamed for much of West Africa's bloodshed must stand trial on charges of aiding rebels during the West African country's civil war. Taylor is accused of providing financial and military support to rebels in Sierra Leone who became notorious for hacking off civilians' limbs, in return for access to the former British colony's diamond fields. The court dismissed an appeal by Taylor who said he should be entitled to immunity as he had been a serving head of state at the time of his indictment last year. The court said that the official position of the applicant Charles Taylor as an incumbent head of state at the time when the criminal proceedings were initiated against him is not a bar for his prosecution by it.

Taylor's lawyers had also argued during his appeal that the court had no jurisdiction outside Sierra Leone. They had requested that his indictment should be quashed and the international arrest warrant should be declared null and void. But the court, where United Nations and local judges sit side by side, argued it was an international tribunal. The principle seems now established that the sovereign equality of states does not prevent a head of state from being prosecuted before an international criminal tribunal or court.

Some 50,000 people died in Sierra Leone's war, which started in 1991 when rebels attacked from Liberia. It was declared over in 2002 after the deployment of a massive U.N. peacekeeping force which numbered 17,500 at its peak. Taylor, who began a civil war in his own country in 1989 before being elected president in 1997, left Liberia in August 2003 under huge international pressure and with rebels besieging the capital Monrovia.

Charles Taylor has been in exile in Nigeria since August 2003, when, under huge international pressure, he stood down, paving the way for an end to 14 years of war in his country. He was indicted in March last year on 17 counts of crimes against humanity for allegedly arming and training Sierra Leone's notorious Revolutionary United

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Front (RUF). The court had indicted him of crimes against humanity and other serious violations of international humanitarian law. In exchange for his help, which is believed to have included the dispatch of Liberian fighters into Sierra Leone to back the rebels, Taylor was allegedly paid with "blood diamonds" - among the estimated \$561.13 million worth of the precious gems smuggled from Sierra Leone during the war. He was served with the indict-

ment in June last year in Accra, Ghana, where he was engaged in negotiations to end Liberia's civil war, sparked in 1989 by his rebellion against then president Samuel Doe.

The court's timing infuriated regional leaders who were trying to broker the peace deal, including Nigerian President Olusegun Obasanjo who eventually became Taylor's reluctant host in exile. Since then Obasanjo has remained firm, even flying in the face of an Interpol warrant filed in December that his guest will stay where he is until Liberia summons him home for trial. The court said it is now up to Nigerian authorities to hand Taylor over to the tribunal. The ruling is likely to increase pressure on Nigeria to hand over Taylor.

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