

**REPORT OF A WORKSHOP ON
WOMEN'S RIGHTS AND INTERNATIONAL JUSTICE MECHANISMS**
(Held on 5-6th November 2004 at Guwahati)

A workshop on Women's Rights and International Justice Mechanisms was held on 5-6th November 2004 in Guwahati, India. The workshop was organized by ICC-India, a project of Women's Research & Action Group (WRAG), Mumbai, in collaboration with North East Network (NEN). *ICC-India* is a premier project started in 2000 for carrying out an awareness and advocacy campaign in India on the issue of International Criminal Court. It is an activity of Justice and Accountability Matters (JAM), a programme of Women's Research and Action Group (WRAG), Mumbai. North East Network is an organization engaged in advocacy activities on women's rights, in the North Eastern states of India.

This workshop is a part of a series of programmes that ICC-India is organizing in various states, aimed at disseminating information on the ICC and its relevance to India. The objectives of the workshop were: a) to understand the concept, principles and functioning of the ICC; b) to understand its implications for human rights generally; c) to explore the specific relevance of ICC for human rights issues and campaigns within India; and d) to strategise on strengthening the ICC campaign within the country. The participants for this workshop included human rights activists, lawyers and journalist from five different North Eastern states, namely Assam, Mizoram, Nagaland, Manipur and Meghalaya.

The resource persons for the workshop were Ms. **Vahida Nainar**, Chair of Women's Initiatives for Gender Justice, The Hague & founder trustee of Women's Research & Action Group, Mumbai; **Dr. Subhram Rajkhowa**, Reader in the Department of Law, Director in charge of Refugee Studies, Guwahati University & Co-ordinator, Citizens Collective - North East India, Ms. **Saumya Uma**, Coordinator, ICC-India and Co-Director, Women's Research & Action Group, Mumbai; and Ms. **Pouruchisti Wadia**, Assistant Co-ordinator, ICC-India and Coordinator, Legal Literacy and Human rights Awareness Project, Women's Research & Action Group, Mumbai.

Day 1:

Ms. Monisha Behal, Director-Programmes, North East Network, welcomed the participants and resource persons, and outlined the activities of NEN and of ICC-India. She said that NEN found the ICC a very relevant issue for its activities, and that the present workshop was the culmination of several months of efforts of both NEN and ICC-India at holding such an event in collaboration with each other.

Session 1: Historical Background by Vahida Nainar

Ms Vahida traced the development of International Human Rights and Humanitarian Law, distinguished between the two sets of laws and the ICC as a culmination of these developments. She talked with particular reference to the jurisprudence of the International Criminal Tribunals for former Yugoslavia (ICTY) and Rwanda (ICTR) and how the Statute creating the ICC had drawn heavily from this jurisprudence, and

developed concepts even further. She spoke about the jurisprudence of ICTY & ICTR in prosecuting for sexual violence, and the strategies and initiatives used for prosecution of sexual violence in the absence of specific mention of the acts in the statutes of the tribunals. She explained how the ICC was historic and unprecedented in its recognition of crimes against women, in the light of a historic neglect in prosecution of mass crimes against women prior to the drafting ICC Statute. The discussion following the presentation focussed on the concept of universal jurisdiction and procedures for sending information to the ICC Prosecutor about a situation.

Session 2: Perspectives from North Eastern States by Dr. Shubram Rajkhowa

Dr. Shubram Rajkhowa started his presentation by saying that the ICC filled the need to move from the culture of impunity to accountability. He outlined the historical background of the North Eastern states, focussing on the plurality of culture, tradition, language, customs and laws that existed there. He highlighted the human rights situation in the North Eastern States including the demand for repeal of The Armed Forces (Special Powers) Act (AFSPA) and the alternatives for the same, the existence of multiple laws of a draconian nature that are in force in all the seven states, human rights violations faced by women in particular due to the on-going conflict, enforced disappearances, torture and illegal detentions.. He further noted the lack of political will to set up state human rights commissions, the appalling state of existing commissions in Assam and Manipur, and the problems caused by non-separation of the judiciary and the executive in some districts in Assam and Meghalaya. He also talked about various insurgent groups and the human rights violations they committed.

Session 3: Perspectives from North Eastern States (continued)

In the post lunch there was a brief presentation done by each all the participants with regard to the human rights situation in their state, the various groups involved there, the participants' and their organizations' efforts in seeking justice and accountability for human rights violations and the local movements. This input from participants was imperative for the resource persons to make linkages between the ICC and the local context.

Session 4: Fundamentals of ICC by Pouruchisti Wadia

In this session, Pouruchisti talked about the fundamentals of the ICC, such as the underlying principles and philosophy behind creation of the ICC, crimes under the ICC, the trigger mechanisms, the structure of the court and implementation mechanisms.

Session 5: ICC & India by Saumya Uma

In the following session, Saumya Uma traced the Indian government's involvement on the issue of ICC from the early 1990s, its submissions at the Rome Conference, its abstention from voting on the Rome Statute and its present day concerns. She also spoke

about how the ICC had relevance to various human rights issues, including issues of most concern to the India in general and the north eastern states in particular.

Session 6: **Group Activity**

The last session for the day consisted of a group activity on the use of ICC standards for law reform with particular reference to the local context, and the use of local media for advocacy on ICC.

Day 2:

Session 1: **Presentation of Group Activity**

In the presentations, the groups tested provisions of Armed Forces (Special Powers) Act, Disturbed Areas Act, National Security Act, Section 19 of Protection of Human Rights Act (that bars Human Rights Commission from investigating violations of armed forces), death penalty and the provisions of Indian Penal Code against ICC standards. Reforms in procedural laws were also highlighted, including in camera proceedings, protection of victims and witnesses and reparations to victims. Participants also enumerated initiatives that could be taken for advocacy through the media, including workshops for media persons, holding press conferences, making documentaries and writing letters-to-the-editor. The group activity was well-received by all participants.

Session 2: **Panel Discussion on Relevance to Women's Rights.** Panelists: Vahida Nainar, Saumya Uma, Darilyn Syiem and Anjuman Ara

Vahida Nainar talked about the unprecedented level of gender integration into the ICC Statute, and highlighted substantive provisions on crimes of gender violence, gender-just procedural and evidentiary provisions, and provisions that facilitate a high level of participation of women in the functioning of the ICC. In particular, she talked about the evolution of the definition of rape under international humanitarian law, jurisprudence of ICTR & ICTY and in the ICC statute. She concluded by stating that while gender integration in the ICC Statute was substantial, we now needed to wait and watch as to how these provisions are implemented. .

Saumya Uma spoke on Relevance of ICC to women's rights in India. . She traced historically the kind of human rights violations faced by Indian women from the time of Partition in 1947, and the impediments to justice and accountability for such violations. She highlighted that political unwillingness to prosecute was a major stumbling block for ensuring accountability for grave crimes committed on women, including women belonging to religious minorities and the dalit community.

Darilyn Syiem and Anjuman Ara from NEN spoke in particular reference to the relevance of ICC for women's rights in North Eastern states. They talked about their findings in a research done on the impact of armed conflict on women in the north eastern states. . This included the grave violations faced by women, the high incidence of rape

and the need for giving special attention to women in conflict situations. It reinforced the significance of the gender crimes, which were so elaborately defined in the ICC.

Session 3: Group Activity: Case Studies on ICC & Women's Rights

The groups were given hypothetical case studies with facts on violation of women's rights. In both the case studies the group had to

1. Identify the human rights violations
2. Identify the crimes under which these violations would come under the ICC Statute and also those violations which would attract the definition of more than one crime under the ICC
3. Identify the individuals who could be prosecuted under the ICC in the given situation
4. Identify the role of NGOs

In the post lunch session the group members made presentations on their respective case studies. The discussion was facilitated by Ms Vahida Nainar. This session helped the participants understand what could potentially constitute genocide and crimes against humanity in a given situation, the standard of proof required for the same, and who could be prosecuted by the ICC.

Session 4: ICC Campaign in India: The Way Forward by Saumya Uma & Dr. Shubram Rajkhowa

Saumya Uma talked briefly about the ICC campaign in India and Dr. Subhram Rajkhowa initiated a discussion on ways to take the campaign forward in the north eastern states. . Participants suggested various strategies to strengthen the Indian campaign on the ICC, including use of the print and audio-visual media, having a training of trainers for equipping interested participants with skills in conducting workshops on ICC, dissemination of the ICC Q & A and its translation into local languages. Some participants stated that they would include a session on ICC in all their future workshops on women's human rights and child Rights.

The participants showed immense interest in the topic of the workshop, and most of them expressed that two days was not adequate for the topic. The resource persons said that they found this workshop a two way learning process as they were going back with a rich knowledge of the local context, which would be useful for all future work on the ICC-India campaign. .

Report prepared by ICC-India, 9 December 2004

For comments and suggestions, please write to iccindia@indiainfo.com / wrag@vsnl.com