

ICC can exercise its jurisdiction for trial

Ex-prosecutor for Yugoslavia Tribunal says on forced deportation of Rohingyas

Staff Correspondent



The International Criminal Court can exercise the territorial jurisdiction to try the perpetrators who forcibly drove out Rohingyas from Myanmar into Bangladesh, a former ICC prosecutor said yesterday.

“The Rohingya have been forced to flee to Bangladesh after members of their community faced killings and various other forms of torture,” said Kate Vigneswaran, former prosecutor for the Yugoslavia Tribunal, at an international seminar in the city.

When a person is driven out directly into the territory of a second state, the ICC may exercise the jurisdiction under the article 12(2)(a) if either of the originating or receiving state is a state party to the court, she said.

“Deportation and other acts constitute apartheid and persecution as a crime against humanity, both of which are continuing,”

said Kate Vigneswaran at the seminar titled “Accountability: The ICC and the Rohingya Crisis”.

Centre for Genocide Studies of Dhaka University, ActionAid Bangladesh and Centre for Peace and Justice at Brac University jointly organised the programme at the DU's Nawab Ali Chowdhury Senate Bhaban.

The ICC on May 9 wrote a letter to Bangladesh seeking its observations on its jurisdiction over the expulsion of Rohingyas from Myanmar to Bangladesh, possible crimes against humanity.

Bangladesh is yet to respond to the ICC letter.

Earlier on April 7, the ICC prosecution sought the court's opinion over its jurisdiction to investigate the forcible deportation of the Rohingya.

Over 700,000 Rohingyas fled to Bangladesh amid a military crackdown against them in Myanmar's Rakhine state since August 25 last year. Thousands were reportedly killed, women raped and the Rohingya villages burned.

Legal experts, academics and rights activists called upon the Bangladesh government to submit the observations to the ICC.

Justice Syed Refaat Ahmed of Bangladesh High Court said Bangladesh, as a state party to the Rome Statute, should provide the observations, including the evidence, to the ICC.

In a presentation, Kate Vigneswaran said almost all the Rohingyas have faced persecution in Myanmar since late 1970s, but nothing has been done about the accountability for these crimes.

“There have been various steps here and there, but nothing significant has been done really to try the crimes.”

Kate said Myanmar is concerned about accountability.

“Without accountability, [there is] no question for them to change this systemic discrimination, perpetration of abuses.”

She said if the repatriation of Rohingyas takes place without making the conditions conducive in Rakhine, the Rohingyas would be persecuted again.

Bangladesh itself is in a position to prosecute the crimes against the Rohingya if the ICC grants jurisdiction to investigate the crimes and if the country has the domestic law and a fair trial procedure that satisfies the Rome Statute, she observed.

“If Bangladesh decides to prosecute, the Court would refer them,” Kate said.