

# **2<sup>nd</sup> INTERNATIONAL CONFERENCE ON GENOCIDE, TRUTH AND JUSTICE**

*July 30 to July 31, 2009*

**Organized by**

LIBERATION WAR MUSEUM, BANGLADESH

## **Proceedings**

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## **Liberation War Museum**

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The First International Conference on Genocide, Truth and Justice was organized by the Liberation War Museum in March, 2008. Organized as a sequel to the first conference, the Second International Conference on Genocide, Truth and Justice was held on the 30<sup>th</sup> and 31<sup>st</sup> of July, 2009 at the CIRDAP Auditorium, Dhaka. This conference, held in the wake of a changed political scenario and when voices are being raised demanding the Trials of the War Criminals of 1971, has acquired greater importance and significance now because the demand for the Trials has been hugely endorsed by the younger generation.

The first conference dealt with genocide as a crime from different perspectives, whereas the second conference emphasized on the legal aspects and procedures of the War Trials with a view to assist the present elected government, which is committed to and has already taken initiatives to start the process of the Trials. During the two-day conference, important aspects and new insights to the Trials were voiced by the various legal experts, both from home and abroad. The foreign legal experts shared their invaluable views about trial processes based on their experiences of working in previous international tribunals.

**Key Aspects of the Conference:**

- Discussions took place over the existing limitations in the International Crimes (Tribunal) Act, 1973 and amendments required to make the Act to match international standards.
- The discussions led to the answer of some important questions; such as how to reduce the length of time required for the trials as well as what may be done to try those perpetrators living abroad.
- Trauma of the victims of sexual violence was discussed to obtain a due recognition of sacrifices of these victims; not only to ensure justice but also to pave the way for social repair.

**Day 1: July 30, 2009**

**Opening Session: 9:30AM**

**Master of Ceremonies:** Mofidul Hoque

**Guest of Honor:** Barrister Shafique Ahmed

**Address of Welcome:** Akku Chowdhury

**Speakers:** Dr. Suzannah Linton  
Dr. David Matas  
Helmut Scholz

**Chairperson:** Prof. Salahuddin Ahmed

Mofidul Hoque, Trustee and Member Secretary of the Liberation War Museum, expressed his satisfaction that the museum has been able to hold the Second Conference and welcomed all the participants. He read out the preamble of the International Criminal Court (ICC) which talked about all the atrocities of the last century and the need for them to be identified and recognised as genocides. The preamble also speaks about the need to punish the perpetrators through an effective prosecution mechanism, which can only be ensured by taking measures at the national level and by enhancing the level of international cooperation.

In his address of welcome, Akku Chowdhury, Trustee of the Museum, introduced the foreign participants. He expressed his hope that the ideas and experiences on genocide, trials and reconciliation, gathered by the foreign delegates during the last decade will help us in our ongoing struggle of seeking justice and truth.

**Dr. Suzannah Linton, Faculty of Law, University of Hong Kong**

Dr. Linton pointed out that genocides, war crimes and crimes against humanity are no longer a matter of domestic concern. The International community has an interest, and more importantly, a legal responsibility to assist in the process of accountability and in that process, of social repair. Citing the examples of Liberia, Sierra Leone and Cambodia, she pointed out that although difficult, delayed trials can be held. In addition, she suggested that Bangladesh can learn from the experiences of these countries.

**Dr. David Matas, International Human Right Lawyer, Canada**

The renowned lawyer mentioned that there was still a positive aspect in the undue delay in trying the perpetrators, which was that experience could be gained from the International Tribunals that have been held in other countries since the establishment of ICT in 1998 and this can be used in the trial of the war criminals of the 1971 genocide. He also called for Bangladesh to ratify this Treaty in its Parliament.

**Helmut Scholz, Member of Parliament, EU**

He stated that the changed political scenario in Bangladesh has paved the way for the legal prosecution and conviction as well as for social reconciliation for the crimes of 1971. In this context he noted with satisfaction that there seemed to be an increased possibility that Trials will be held according to the “International Crimes (Tribunal) Act of 1973”. As a member the EU Parliament he reiterated that the EU is aware of the report of the “War Crimes Fact Finding Committee” and that the EU looks forward to placing the issue of the Bangladesh Genocide in the forthcoming General Assembly of the UN.

**Barrister Shafique Ahmed, Honorable Minister, Ministry of Law and Parliamentary Affairs**

He explained the reasons why the trials of 1971 genocide could not be initiated over the last 38 years in a concerted manner. Apart from reiterating the commitment of the present government for holding the War Crimes Trials, he described the recently amended provisions to the “International Crimes Tribunal, Act of 1973”.

**Key contents of the speech of the Honourable Minister :**

- The trials of war criminals were initiated by the Bangabondhu Government in post Liberation Bangladesh and accordingly, Laws were enacted. But on August 15, 1975, Bangabondhu, along with his family, was brutally murdered. This killing was followed by a series of military coups and counter-coups which led the country into a period of anarchy.
- After the killing of Bangabondhu, there was a period of turmoil and Gen. Ziaur Rahman took over the power, became Chief Martial Law Administrator and eventually became the President of the country. A few years later Gen. Ershad became the President of the country through a similar process.
- The Constitution was ammended during the regimes of Gen. Zia and Gen. Ershad. Both Secularism and Article 38, which stated that no one can form a political party on the basis of religion, was removed from the Constitution.
- The Awami League came to power in 1996 and they initiated the trial for the Bangabondhu killing but could not initiate the War Crimes Trials.
- Early in 2009, The Awami League was re-elected to power with a landslide victory in the general election. The trial of the war criminals was a part of their election manifesto and they have already taken some of the necessary steps.
- Some amendments have been made to the 1973 Act. The Tribunal will be absolutely civilian in nature. Any person qualified to be a judge of the Supreme Court or any person who has been a judge of the Supreme Court is eligible to be a Member of the Tribunal.

### **Key contents of the speech of Prof. Salahuddin Ahmed**

In the presidential speech, Prof. Salahuddin Ahmed, who chaired the opening session pinpointed the basic objectives of the conference. He furthermore expressed his concern over the rise of terrorism and violence all over the world.

### **Key aspects of the presidential speech:**

- The perpetrators of the 1971 genocide went unpunished due to the prevailing international situation at that time, in spite of the fact that the 1971 genocide was one of the worst genocides committed in human history.
- The trials of the perpetrators of war crimes and crimes against humanity in 1971 are essential to strengthen the image of Bangladesh as a modern, secular and democratic country.
- At present, the world is facing the threat of the rise of terrorism and violence perpetrated by religious militant fanatics as well as extremist political elements. Terrorism and violence in the name of religion appear to be the major threat to world peace and stability.

### **Plenary Session: 1**

9.30 AM

**Speakers:** Rumana Islam

A.B.M Abu Noman

Dr. David Matas

**Chairperson:** Dr. Suzannah Linton

**Rumana Islam, Assistant Professor, Department of Law, University of Dhaka**

In her presentation, the speaker tried to clarify the misconceptions about the general amnesty declared by the Bangabondhu Government. She elaborated further regarding the lack of sufficient laws to initiate the trial process, especially after an elapse of such a long period of time.

**Key points of the deliberation:**

- There is a misconception among the common people regarding the general amnesty declared by the Bangabondhu Government in 1973. This is due to the fact that the perpetrators and their allies had distorted the truth for their own sake. It is categorically stated in the preamble to the General Amnesty that the amnesty is not applicable to those who have committed heinous crimes like genocide and crimes against humanity. This fact has been carefully and maliciously underplayed during successive governments.
- During the Liberation War, the infrastructure of the country had been destroyed. In the post liberation period, the Bangabondhu Government faced an uphill battle of reconstructing the country, a task impossible without foreign aid and assistance. Due to continuous pressure from the outside world, especially from the Islamic countries and the Organization of the Islamic Countries (OIC), the then government had no other alternative but to declare a general amnesty.
- At the time of declaration of the amnesty, neither was the general sentiment of the people considered nor were the families of the martyrs consulted. It was a decision taken solely by the then government, which later on, proved to be a paradox for which the nation is still paying.
- Some quarters argue that Bangladesh might face obstacles in gaining international development assistance if it pursued the war crimes trials. However this should not be a problem as Bangladesh is an important country for the West in their war against terror in the South Asian region. If the leaders of Bangladesh can convince the West that the war trials will actually pave the way for combating terrorism in this country, international assistance will certainly be available.
- It is ultimately the Constitutional duty of the government to ensure that the laws are made according to the peoples' will. The Trial of the war criminals is not only a moral duty but has also become a Constitutional duty due to the recent mass endorsement of demand through the 2008 election mandate.

**A.B.M Abu Noman, Assistant Professor, Dept of Law, Chittagong University**

In his paper, the speaker discussed about the origins, definition and basic approaches of Transitional Justice. Moreover, he analyzed the concept of Transitional Justice in the perspective of Bangladesh and highlighted the importance and responsibility for witness protection for ensuring Transitional Justice.

**Key points of the presentation:**

- Transitional Justice is not in itself a special form of justice but is a set of approaches that seek to bring about justice under extraordinary conditions, usually for societies in transition from authoritarianism and violent conflict to democracy and peace. After World War II, the international community established the key notions for Transitional Justice, including the international Military Tribunals at Nuremberg and Tokyo and also supported the domestic prosecution of war crimes in Europe and Asia. These initiatives were instrumental in the birth of the modern human rights concepts through the creation of the UN and the broad acceptance of the Universal Declaration of Human Rights.
- There are a number of interdisciplinary strategies through which Transitional Justice can be implemented; such as prosecutions and Truth Commissions. Prosecutions may take different forms such as domestic or national prosecutions, hybrid tribunals, international prosecutions and the International Criminal Court (ICC).

- Truth Commissions generally focus on the past and in general, investigate a pattern over a set period of time rather than a specific event. Moreover, Truth Commissions are temporary bodies and are officially sanctioned, authorized and empowered by the state.
- Other interdisciplinary strategies include reparations, vetting, sanctions and administrative measures; memorialization, education and archives; traditional, indigenous and religious approaches; and institutional reforms.
- The testimony of the witnesses is a vital component of Transitional Justice, no matter what interdisciplinary strategy is undertaken. Consequently, the spontaneous participation of witnesses in an atmosphere free from fear must be ensured.
- Although the criminal justice system in Bangladesh guarantees certain safeguards and confers a set of constitutional and statutory rights to the accused, it does not demonstrate equal concern for victims of crime for the losses incurred by them or the physical, mental or emotional injuries sustained by them.
- It is unfortunate that there exists a notable gap in the International Crimes (Tribunal) Act of 1973 in defining the security considerations that need to be taken for the witnesses prior to, while testifying and after they leave the court. Despite the recent Amendment to the Act on July 9, 2009, nothing was incorporated in the Tribunal regarding the security and protection of the witnesses.

#### **Dr. David Matas, International Human Rights Lawyer, Canada**

Through his paper, rich in content, Dr. David Matas shed light on the measures which may be taken to prevent unreasonable delays in international criminal trials. In addition, he queried whether enough provisions for adopting such measures were put in place in The International Crimes (Tribunals) Act, 1973.

#### **Key points of the deliberation:**

- Interlocutory appeals often cause undue delays in International Criminal Trials. The International Crimes (Tribunals) Act, 1973 provides, through a recent amendment, for the right of appeal against convictions and sentence and against acquittal. However the issue of interlocutory appeals is not addressed directly or adequately by these provisions.
- If a Trial Chamber can dispense with the attendance of a witness in person and instead admit the evidence of a witness in the form of a written statement or a transcript of evidence, the waste of time may be reduced to a great extent. Although the Act allows for written statements, formerly given in front of a Magistrate by someone who is currently dead or unavailable, the provision does not go as far as the International Criminals Tribunal for the former Yugoslavia.
- Another way of preventing undue delays is to accept judicial notice of adjudicated facts or documentary evidence from other proceedings of the Tribunal relating to matters at issue in the current proceedings. The Bangladesh statute does not provide for an express provision for taking judicial notice of previously adjudicated facts.
- Undue delays may also be cut short by allowing the court to limit the number of witnesses.
- Another manner in which time may be saved is to give the Court the powers to limit charges against the accused.
- IC(T)Act, 1973 provides that a Tribunal shall adopt and apply expeditious and non-technical procedures to the maximum possible extent. If rules are introduced allowing written statements of witnesses and for taking judicial notice of previously adjudicated facts, the rules will be consistent with the Bangladesh statute, as suggested by the provision of the 1973 Act.

#### **Observations from the Open Discussions:**

- As Transitional Justice is a westernized concept, it may not be appropriate in the Bangladesh perspective.
- Though the prosecution should be of international standards in terms of fairness, due process of law and justice, the crimes of 1971 should be dealt with the laws of that particular time.
- If the perpetrators who are currently Pakistanis are exempted from the prosecution, the victims will be denied of justice to a great extent.
- Secularism should be restored in the Constitution for the sake of social justice.
- Initial processes require more witnesses whereas processes initiated later require fewer witnesses. For this reason, there is no minimum number to which the number of accused can be limited.
- The forms of Transitional Justice are not alternatives; rather they are supplementary to each other.

## **Plenary Session: 2**

2.00 PM

**Speakers:** Dr. Syed Anwar Hossain

Helmut Scholz

Ahmed Salim

**Chairperson:** Dr. Chanwahn Kim

**Dr. Syed Anwar Hossain, Professor, Department of History, University of Dhaka.**

The speaker analyzed the Bangladesh genocide in terms of the genocide paradigm developed by Gregory Stanton in 1996. He also made an attempt of fixing responsibility for the genocide factor from a number of perspectives.

### **Key points of the deliberation:**

- According to the Stanton paradigm, the first stage is classification, according to which people are divided into 'us' and 'them.' During the Liberation War the Pakistani rulers were considered as 'us' and the Bengalees as 'them'. This distinction was a fallout of the partition of India and has been maintained since 1947.
- The second stage is symbolization. Due to hatred, the Pakistani rulers used symbols vis-à-vis Bangalis like: "not pure muslims", "lowly born people", and finally, "miscreants" during the Liberation War.
- The third stage is dehumanization, which means that one group denies that the other group may be considered human. In February 1971, Yahya Khan was reported to have stated: "Kill three million of them, and the rest will eat out of our hands"; General Niazi considered Bangladesh as a "low lying land of low lying people."
- Organization is the fourth stage which means that genocides are always organized. Such was the case with the 1971 genocide.
- Polarization, which is the fifth stage, refers to the broadcasting of polarizing propaganda.

During the Liberation War, the Pakistani propaganda was that all Muslims in Bangladesh had turned into Hindus and the Liberation War was provoked by India.

- Preparation is the sixth stage, according to which victims are identified and separated out because of their ethnic or religious identity. This was meticulously followed during 1971.
- The seventh stage is extermination. The extent and ramifications of the perpetrators of the 1971 genocide confirm their extermination objective.
- The eighth stage is the denial of crimes. Neither the Pakistani perpetrators nor their local cohorts have ever accepted any responsibility for genocide in Bangladesh.
- The primary responsibility of the Bangladesh genocide is to be fixed on the Pakistani military that authored the “Operation Searchlight” and unleashed the genocide. The role of the local collaborators is also to be added to this category of complicity.
- The Jamaat-e-Islami, in both the wings of Pakistan, driven by their distorted and obscurantist views, was the main back-up political force that abetted the genocide and helped the military junta. In a secondary sense, Zulfikar Ali Bhutto should also be accused of abetting genocide.

#### **Helmut Scholz, Member, EU Parliament, Germany**

The eminent speaker highlighted on the peacemaking role of international legal community in order to achieve social justice. Furthermore, he gave important suggestions on how to create an environment whereby the peacemaking functions of modern international law may be made more enforceable.

#### **Key points of the paper :**

- Over the years, international legal processes have attained heightened standards in terms of transparency and independence. The formation of the United Nations in 1948 marked a new start in the history of international law. However, there are still many questions about the peacemaking role of international law, yet to be worked out.
- The previous functions of international law have been put to test because of the consequences of the growing economic inequality in the world and politically exploited conflicts. It is necessary that the process of decolonization continues so that an internationally and universally oriented economic system may develop and more opportunities for social justice can be achieved. Only a multilateral US foreign policy can serve as a guarantee against the perpetuation of the current power and wealth disparities. This requires further development of international laws: laws which will ensure that relations can be actually and permanently maintained on equal grounds.
- The Rome statute and creation of the ICC in 1998 is an event of great significance in the history of international law. The ICC is independent of historical events and cannot indict any crimes against humanity that happened before 2002. The history of ICC is also of enormous importance

for the creation of a legal environment in which one can prosecute past crimes against humanity.

Unfortunately, the US has rejected the ICC even today, in spite of the fact that it had played a crucial role in the Nuremberg trials.

- There are three key factors that would produce an environment where the peacemaking functions of modern international law is realistic. These are extensive requirements for transparency and education, equal and concurrent legal and social analysis and protection against political exploitation.

#### **Ahmad Salim, SARRC, Islamabad, Pakistan.**



Mr. Salim could not be present at the Conference but sent his paper, which was read out. The highly informative paper was acclaimed by all since it could serve as a source of evidence in the trial of the Bangladesh genocide. The paper, borrowing from the various press reports in Pakistan itself about the events in Bangladesh, aims at unearthing the role of Jamaat-e-Islami in the war crimes and crimes against humanity in 1971.

#### **Key points of the paper:**

- The Jamaat leaders and activists viewed the Hindu teachers of Dhaka University as Indian agents. According to them, these teachers developed the concept of Bengali nationalism instead of Islamic nationalism and the Muslim youth adopted the Hindu culture, Hindu civilization and Hindu values under the cover of Bengali culture, Bengali civilization and Bengali values.
- In a meeting on March 10, 1971, the decision was taken that the Islami Chhatra Sangha will act to save Pakistan and its people's life, property and honour. This decision was publicly announced in another meeting on March 14, 1971.
- An army officer, Major Riaz Hussain Malik from the 31 Baloch Regiment started the training of 47 Islami Chhatra Sangha members at Sherpur on May 18, 1971. He addressed the group on May 21 and suggested the name "al-badr." The first commander of "al-badr" was Kamran, a student of Intermediate Science.
- The objectives of the "al-badr" were to restore the confidence of the people, to bring closer the people of East and West Pakistan and to provide positive and practical cooperation to the Pak Army and civil administration in their armed movements for the defence of Pakistan and maintain her integrity.
- Al-Badr got military training from the army. The training period was seven to twelve days. They were trained in the use of light weapons, to understand wireless system, to de-activate explosive mines and to use other weapons.

#### **Observations from the open discussion:**

- Bangladesh has not ratified the ICC till now although it should have been the first nation to ratify the ICC. It is high time that the Bangladesh Government ratifies the ICC.
- Extradition can be thought of as a remedy of the problem in initiating war trials of the perpetrators who are living abroad. Extradition, however, is only possible if an agreement exists. Otherwise it is difficult to initiate the trials.
- One of the reasons of the failure of Bangladesh in gaining international support in 1971, perhaps lies in the fact that the Muslim countries did not support the cause of an independent Bangladesh. Egypt and Iraq were the only two countries that supported the struggle of the Bangladeshi people.
- People of other countries were unable to understand the sufferings and suppression that the Bangladeshi people faced. For this reason, the public should speak out in order to create awareness and also to provide evidence.

#### **Plenary Session: 3**

**Speakers:** Prof. Chanwahn Kim

Bina D'Costa

Constanze Oehrich/Nafia Tasmin Din

**Chairperson:** Ms. Halina Wawzyniak

**Dr. Chanwahn Kim, Korea**

The speaker described the role of India on the prisoners of the Korean War in the early 1950s. In this context, he commented about the prisoners of war of the Liberation War of Bangladesh.

**Key points of the deliberation:**

- As the Korean war broke out on 25 June, 1950, the UN Security Council adopted the first resolution which called for a cease-fire and a North Korean withdrawal to the 38<sup>th</sup> parallel. India condemned North Korea as the aggressor supporting the UN resolutions of 25 and 27 June on the crisis.
- However, India did not support the UN resolution for military assistance to South Korea as it was beyond her capacity. Furthermore, India did not want to become embroiled in the US-China rivalry for she was looking forward to cultivate friendship with China. Besides, India was too busy with its own socio-economic problems.
- The armistice negotiations between the military commanders of the opposing sides of the Korean peninsula were held up over the question of exchange and repatriation of prisoners of war. India, along with the rest of its Afro-Asian group drafted a compromise resolution which was submitted to the General Assembly on 17 November, 1952. The resolution stated that, all prisoners of war

should be released and repatriated in accordance with the Geneva Convention and that no force should be used against the prisoners of war to prevent or affect their return to their homes.

- At the end of the war, the agreement on the repatriation of prisoners was signed on June 1, 1953. South Korea was unhappy over India's inclusion in the Neutral Nations Repatriation Commission (NNRC) and vehemently opposed the landing of Indian troops in South Korea. In this context, Nehru urged the UN to uphold the armistice agreement.
- India also provided the Custodial Force of India (CFI) consisting of about 6,000 troops to implement the repatriation of prisoners. By September 24, the UN Command completed the handing over of prisoners to the custody of NNRC.
- The mission entrusted to the NNRC could not evidently be fulfilled completely. Nevertheless, it was meaningful to India. First, the suggestions made by India in regard to the repatriation of prisoners of war formed the basis of the agreement on the subject and eventually led to the Armistice Agreement. Second, India was called upon to take up the Chairmanship and the Executive Agency of the commission, largely because, as a non-aligned country, she had won the confidence of the both the parties that she would act impartially.

**Bina D'Costa, Research Fellow, CIGJ, Australia**

The paper was read out as Ms. D'Costa could not attend the Conference and is aimed at showing how transnational networking proves to be an effective tool for forming strong coalitions of feminist scholars and activists across religious, ethnic and political boundaries. The paper further describes how the Bangladeshi feminist movement can take advantage of transnational networking to address socio-political biases in gender relations, both local and global.

**Key points of the paper:**

- Transnational networking does not conform to a model of cooperation based on functional contracts between nations/states but it crosses national boundaries and recognizes the importance of non-state actors who operate trans-nationally.
- Three key conditions may facilitate transnational feminist activism and networking to bring about effective changes in the behavior of the state of Bangladesh. First, the political context would need to be permissive, so that the government would not vehemently oppose international networking and human rights efforts. Second, a significant element in the ruling coalition of Bangladesh would need to cooperate, even at the cost of party affiliation and be more committed towards the issues of peace and justice. Third, local human rights and justice seeking groups would need to be organized and be capable of forming links with their international colleagues.
- The formation of a transnational network would help to build political capital for women's movements within Bangladesh. Such networking would have several benefits. First, activists within Bangladesh are vulnerable to political shifts and engaging with international colleagues could provide them some protection from the state to pursue their projects. Second, a number of international organizations which had worked in Bangladesh in the post liberation war period have a rich archive of interviews of the victims. A transnational network could pave the way for an internationally coordinated fact-finding mission to unveil narratives from war victims. Third, the expertise and skill of the women activists worldwide could assist with training and workshops at the national level. Finally, this network could hold governments accountable for not addressing the needs of victims. It could strengthen the demands for truth and justice, and demonstrate to the victims that they are no longer suffering their trauma alone.

#### **Constanze Oehrich and Nafia Tasmin Din, ECCC, Cambodia**

The speakers, through their joint presentation, shared their experience about how war trials were being currently held in Cambodia. They also addressed the important issue of victim participation in criminal proceedings.

#### **Key points of the presentation:**

- Though victim participation accelerates the trial process, the charters remain silent over the basic needs and rights of the witnesses. So, a high quality of legal representation should be ensured to the victims. Furthermore, good practices should be implemented amongst those who interact with the victims.
- Funds are required to conduct proceedings in special courts. Funds can be raised either from victims or from individuals, organizations and states.

#### **Observations from the Open Discussions:**

- The prisoner of war (POW) issue was a trilateral issue among Bangladesh, Pakistan and India. But Pakistan turned the issue into a bilateral one and Bangladesh failed to take advantage of the issue. Eventually India used the issue for its own interest.
- As India was directly involved in our Liberation War, Bangladesh should seek help in collecting evidence from India.

- Although there have been some recent amendments to the International Crimes (Tribunal) Act, 1973, no clause regarding the provision of reparations has been added. This is because it is very difficult to provide reparation for such a large number of victims.

## **7:00 PM**

The foreign participants visited the Liberation War Museum and enjoyed a cultural program followed by dinner.

**31 July, 2009**

### **Plenary Session: 4**

9:30AM

**Speakers:** Prof. Ohashi Masaaki, Japan

Lt. Gen. (Retd.) Harun-ur-Rashid

Dr. Mizanur Rahman

**Chairperson:** Dr. David Matas

At the beginning of the opening session, the message of Dr. Dawood Farahi, President of Kean University, was displayed through video screening. There was another message from Professor Hank Kaplowitz, Director, Human Rights Institute of Kean University. Both of them wished the conference a success and highlighted the conference on Bangladesh Genocide they are going to organize in October, 2009

### **Prof. Ohashi Masaaki, Keisen University, Japan**

Through his presentation, not only did the learned panelist describe the origin and history of the indigenous Ainu people, but also narrated the consequences of the continuous oppression and exploitation on them by the Japanese people. Over the years there has been a huge reduction in the population of the Ainu people and this has been termed as ‘unrecorded slow genocide’ by the panelist.

### **Key points of the deliberation:**

- Japanese ruling LDP politicians have never admitted the existence of the ethnic Ainu people despite the clear evidence that Ainu people used to live in the northeastern Honshu, the whole of Hokkaido and the adjacent Kuril Islands and southern Sakhalin.
- In the absence of a recognized official survey, the actual population of the Ainu people remains a mystery. Unfortunately at present, a person purely of Ainu blood can hardly be found, due to various forms of discrimination by the Japanese and due to decades of intermarriage with the Japanese.
- By dint of unfair trade and taxation, Japan’s merchants backed by feudal Samurai lords began oppression and exploitation of Ainu people back in the Edo period. The occasional revolts by the Ainu people were subdued, and the situation worsened consequently.
- Through a treaty in the early Meiji Era, Japan gave up Sakhalin to Russia but kept the entire Kuril Island chain. This caused ‘Forced Relocations’ of the Ainu people from the border areas leading to slow genocide.
- The oppression and exploitation of the Ainu people is hardly presented in the textbooks. This is a reflection of the level of the government’s understanding of the Ainu people.

- It is high time that the Japanese government as well as the common people should admit the grave mistakes committed by the Japanese on the Ainu people. Moreover, the Ainu people should be given due recognition.

**Lt. Gen. (Retd.) Harun-ur-Rashid, Sectors Commanders Forum**

As a member of Sectors Commanders Forum, he described the Bangladesh Genocide of 1971. Furthermore, he reiterated the determination of the Sectors Commander Forum in initiating the war trials for the crimes committed in 1971.

**Key points of the deliberation:**

- In the primitive age, muscle strength was the determinant of wars and hence the society in general was not affected by wars. With the lapse of time, the determinant has changed from individual strength to the use of machines and gun powder and the civil population is affected by the devastation of war to a greater extent.
- In order to minimize the effect on the civil population some conventions and principles for conduct of unavoidable war were framed, which is popularly known as the Geneva Convention, 1948. The present generation of nations and civilized society are against the violation of the Geneva Convention and are in favor of trial of the violators of the Convention.
- Even after 38 years of the Liberation War, the international community is unaware of the magnitude of devastation caused by the occupation forces along with their cohorts in Bangladesh in 1971. These criminals who have committed acts of genocide and acts against humanity should not be left untried. Though the perpetrators and their allies continue to conspire against the nation, the Sectors Commanders Forum is determined to free the nation from the obligation of trying the perpetrators of war crimes in 1971.

**Dr. Mizanur Rahman, Professor, Dept. of Law, University of Dhaka and  
S.M. Masum Billah, Assistant Professor, Dept of Law, Northern University**

In their deliberation the panelists threw light on a number of issues. These include the definition of genocide, the necessity and the process of trial and International Crimes (Tribunal) Act 1973. Apart from these, emphasis was given on the common misconceptions regarding the trial process as well as on how to deal with these misconceptions.

**Key points of the presentation:**

- Many argue that the Liberation War in 1971 was nothing but a civil war and hence crimes committed then cannot be considered as war crimes. But the Liberation War cannot be termed as a civil war from any aspect. The sole purpose of a civil strife is the overthrow a regime from power and then assumption of power by the opposing forces. But the Liberation War of Bangladesh was fought not to alter the internal sovereignty but to alter the external sovereignty; to struggle for emancipation from the clutches of exploitation, oppression and the overcoming of an illegal West-Pakistani authoritarian regime for the purpose of establishing a just government.
- According to some, the huge number of people killed in the Bangladesh genocide is a misnomer and hence the killings should not be referred to as ‘genocide’. As per the definitional scope of genocide under the Genocide Convention 1948, it is not the extent of killing which is important. The intention to destroy an ethnic, national or religious community either wholly or in part comes within the purview of genocide.
- There is a misconception that a war trial is not viable due to the delay of 38 years. Law of limitation is not applicable for crimes against international law and peace. There is no strong objection against the jurisprudential basis of universal jurisdiction. If used competently and following the due process of law any tribunal can exercise universal jurisdiction to try the war crimes.
- Another misconception is that the trial is not reasonable due to lack of testimony of crimes committed in 1971. However, according to International Crimes (Tribunal) Act 1973, even the newspaper cuttings,

letters and other convincing documents can be taken into account as a proof of involvement in the crimes in the 1971 war. Apart from these, many war victims and war survivors are still alive and can provide strong evidence through testimonies.

- The most common misconception about the war trial is perhaps, the general amnesty declared by the Bangabondhu Government in 1973. But the fact is that persons charged with murder, rape, looting, arson etc. were not pardoned. Some say that, the actions of the Pakistani perpetrators were in effect pardoned under the Simla Pact amongst Bangladesh, Pakistan and India. However, Pakistan's failure in trying the war criminals, which was a condition of the Pact, cannot be cited as an excuse for the exoneration of the Pakistani forces nor their local allies.
- A question arises about why the war trials should take place in the absence of any case filed against perpetrators by an individual. The answer lies in the fact that an individual can file a case when a crime is committed against that particular person. As crimes during the 1971 war were perpetrated against the newly born state itself, it is the state itself which should be ready to bring charges.
- The perpetrator and their allies often complain that the war trials will divide the nation into two segments and that trials should not be held for the sake of the unity of the nation. But in reality, the non-divisibility may be an element of state formation but that is not necessarily an inevitable constituent to retain the nationalism.
- There's a question if the trial would be less meaningful if the officers of Pakistani forces liable of genocide and war Crimes somewhat escaped the trials. As command responsibility does not stand in the eye of international war crimes and genocide law, this is indeed a problem. Another question that is frequently raised is about the use of trying the persons in the second line and whether these persons can be charged with the crime of genocide. It can be said that the statements by the members of the Razakar, Al-shams and Al-badr forces published in newspapers, letters and other communication with the Pakistani forces do fall within the incitement to genocide.

#### **M. Amir-ul Islam, Barrister-at-Law**

In his brief deliberation, the renowned lawyer highlighted on the important aspects of his paper, which he could not read in full but was incorporated in the proceedings by the chairperson.

#### **Key Points of the paper :**

1. There is no need for a new law for the trial of the perpetrators of the genocide and war crimes committed in 1971. The International Crimes Tribunal Act 1971, based on the Nuremberg Principles and customary International Laws, is a self contained valid law on international crimes fulfilling the requirements of international standards. Moreover, the law has been updated recently.
2. The impurity for the Pakistani military dictatorship has led to religious fanaticism which appears to be a threat against World Peace and security. During the post liberation war period, the army leadership responsible for the genocide in Bangladesh during 1971, retained positions of power in Pakistan. Successive military dictatorships thrived there in alliance with religious militants which eventually paved the way for religious fanaticism.
3. The impunity of the Pakistani perpetrators and their collaborators, later on, proved to be the reason for a number of killings in Bangladesh after liberation. These include the Bangabandhu Killing and killings of the 7<sup>th</sup> November. The Attack on Sheikh Hasina on 21 August, 2004 and the killing of SAMS Kibria are most recent examples.  
There prevails a misapprehension that a trial of war criminals is likely to create a division among the nation. But the truth lies in the fact that a proper and fair trial will write the nation and solidify the rule of law, justice and equality.

#### **Remedies of problems in trying perpetrators living abroad, as suggested by David Matas:**

David Matas suggested some remedies for the trial of the perpetrators who are residing abroad.

- In the absence of an extradition treaty, the process of trial becomes complicated. If an extradition treaty exists, the particular government should be approached.

- The second option is prosecution in the country where the convict lives.
- Civil litigation is another remedy. Though this is not a suitable option compared to prosecution, it is a lot more effective in the US.
- By providing evidence of war crimes, Bangladesh can get the citizenship of the perpetrators revoked.
- The last suggested option is deportation. When it comes to foreign perpetrators, Pakistan has the first right to prosecute. But if it does not, there exists a provision that Bangladesh can take it up.

#### **Observations from the Open Discussions:**

- The International Law Commission has already defined genocide, war crimes and civil war. A better understanding of these concepts is necessary for the sake of a fair war trial.
- If the trial of the Pakistani offenders cannot be held, the concept of a symbolic trial is a possibility which can be explored.
- It is the duty of international community to campaign for the Trial of the Pakistani war criminals.

#### **Plenary Session: 5**

9:30AM

**Speakers:** Rubaiyat Hossain

Nayanika Mookherjee

Dr. Nasima Selim

**Chairperson:** Constanze Oehrich

#### **Rubaiyat Hossain, Independent Scholar**

The enriched deliberation of Rubaiyat Hossain was based on her extensive research on trauma of the rape victims of the Liberation War. She tried to depict a picture of how these women were treated in the society. In addition, she envisaged rape from the social viewpoint as ‘loss of Izzat’.

#### **Key points of the deliberation:**

- The rape survivors of the Liberation War in 1971 have always been treated as victims, rather than individuals. The personal trauma of an individual woman has always been ignored.
- In the post Liberation War period, the title ‘Birangona’ or ‘Heroic Woman’ was bestowed upon the rape survivors to acclaim at least a minimum respectability for these women. Among actions taken by the state run rehabilitation program, abortions and marrying off rape survivors with lucrative dowries. Eventually the raped women’s rehabilitation programs had to be merged into those of war affected women. Hence, instead of gaining respectability, the term ‘Birangona’ or ‘Heroic Women’ bearing connotations of a loss of ‘Izzat’ for them in the eyes of the public, only added more injuries to them. In this way, the gender issue has always been violated.
- Over the years, the rape victims failed to gain due recognition. They have always been looked down upon whereas the freedom fighters and war affected freedom fighters have been honoured in the society. Even today, the term ‘Birangona’ is not registered in the official dictionary of the ministry of Liberation War Affairs.
- Even after 38 years, a concrete count of women who were raped is yet to be done. Keeping record of narratives of the rape victims is extremely important as these narratives can serve the purpose of strong evidence.

- Till now, only a small number of women have been able to speak about their experiences of rape. So, the space for disclosure needs to be gender sensitive and careful of women's need for privacy. The narrative of rape should only be disclosed in a dialogue among women after the lapse of a long period of time.

**Nayanika Mookherjee, Lancaster University**

The paper, presented on behalf of the speaker was based on her fieldwork in Bangladesh on the public memories of sexual violence of 1971. In the processes of documentation of the narratives of sexual violence of the Liberation War have been analyzed. Through the touching narration about one particular victim of sexual violence, she tried to prove how narratives of rape often become deductively pre-determined.

**Key points of the paper:**

- Inasmuch as they represent narratives of sexual violence, the researches should, instead of a macro, national objective, respect first and foremost the desires of the women whose narratives are being highlighted.
- Narratives with macro objectives often create disjunctions between the narratives and the personal lives embodied by the narratives, which are then often compromised to conform to these narratives.
- The zeal to document untold histories should not make researchers and activists lose sight of the complexity and the consequences of the war-time and post war-time encounters of rape victims. What constitutes these narratives should not be deductively pre-determined and should include the various nuances of experiences as expressed by the women concerned.

**Dr. Nasima Selim, James P Grant School of Public Health, BRAC University**

The speaker narrated the untold story of Majibur Rahman, a former teacher of Rajshahi University who staged a protest in 1971, which was exceptional in many respects. She also attempted to portray in the public memory of not only what war may do to a particular conscientious mind, but what men are able to do to a fellow human being, and what happens to the victim who becomes a freedom fighter simply because of the fact that being a conscientious person, the only choice left to him is to protest.

**Key points of the deliberation:**

- On 10<sup>th</sup> May, 1971, in a letter to the registrar of Rajshahi University, Majibur Rahman, then a 41 year old teacher of the University informed the University that he would leave the campus, which had been turned into an army camp and would not return until normalcy was restored in the country. In addition, he also changed his name to Debdas. Though not being a freedom fighter in the truest sense, Majibur Rahman initiated a fight against the perpetrators in his own unique way.
- For his apostasy, he was thrown into jail, and after Liberation he resigned from his job, which also took a long time to be implemented. Later on, he was branded as a schizophrenic patient and never gained normalcy. It is clear that he was a victim of Post Traumatic Stress Disorder (PTSD) which was caused by witnessing the Genocide, his months of torture in the concentration camp and the everyday neglect, discrimination and misuse of the institutional powers exercised by the University Authority in post liberation Bangladesh.
- In a single page, Debdas protested against this manmade calamity and later also the unwarranted use of Islam to kill Hindus as well as the Muslims of the East Pakistan. He stated his position, reinforced his protest with a change of his name, his identity and his faith in Islam. Thus Debdas was a freedom fighter in both sense of the terms --an outer fight against the genocide perpetrators and another directed against the broader category of religious bigotry.
- This exceptional method of protest by Debdas had failed to gain due recognition in public eye over the past many years. It was only in 1998 that he was honored with the ironic title of "The living Martyr."

**Observations from the Open Discussions:**



- Scars on the physique can be removed, but not those on one's psyche. So in all such studies of victims, the wounds on spiritual body of the victim should be considered instead of the physical body.
- The victims of sexual violence are discouraged to speak about their experiences due to our social structure. But the rape victims and war babies are the missing link in the history of our Liberation War. For the sake of proper documentation, it is necessary to ensure a zone of comfort for the victims so that they can share their stories without any hesitation or loss of face.
- As rape is related to sexuality, aged women feel more free to come up with their narratives now, like in the case of the Korean Comfort Women who began to speak only after they were 50 or 60 years old.
- A nation's maturity depends on how well it treats its minority population. Unfortunately, the Bangladeshi society, in this context, has been as oppressive as the Pakistanis. There has hardly been any research on the oppression on the Hindus and other ethnic communities in the last 40 years. More research is required on the oppression of the Hindus and the ethnic populations, ever since 1947, especially because they were the most affected community during 1971.
- The meaning of justice is not only to ensure trials of the perpetrators but also to give due recognition to everyone who has contributed to the war.

### **Plenary Session: 6**

2.00 PM

**Speakers:** Halina Wawzyniak  
Ansar Ahmed Ullah  
Patrick Burgess

**Chairperson:** Dr. Suzannah Linton

#### **Halina Wawzyniak, Human Rights Lawyer, Germany**

The speaker discussed about the post World War II situation and made some important comments in this regard.

#### **Key points of the deliberations:**

- People responsible for mass killings in Germany during World War II, managed political influence, fled the country and eventually got asylum in North America and other countries. This is also the case with some of the perpetrators of the Bangladesh genocide.
- Truth is essential for the future and to prevent another violation of human rights whereas punishment is necessary for justice.
- The international courts should be independent i.e. free from the influence of countries like USA, India, Russia and China.

#### **Ansar Ahmed Ullah, Forum for Secular Bangladesh, UK**

The paper presented on behalf of the speaker depicts the role of the Bengali Community in UK during the Liberation War of Bangladesh in 1971. Furthermore, there are discussions on the recent initiatives taken by the international community regarding the trial of war criminals of Bangladesh and on the enthusiasm generated about the war trials among the Bengalees residing in the UK.

#### **Key points of the paper:**

- The Bengali community residing in the UK have supported the campaign against military rule in Pakistan, Sheikh Mujib's six-point program for autonomy and even sent a lawyer to assist Sheikh Mujib's defence in the Agartala conspiracy case. During the Liberation War, Bengalis across the globe rallied around the cause of Bangladesh and the Bengali community in UK was no exception. They

highlighted the atrocities that were taking place in Bangladesh, lobbied with the British Government and the international community and raised funds for the refugees and the Bengali freedom fighters.

- As in 1971, soon after the formation of the Nirmul Committee in Dhaka in 1992, the Bengalis in UK came together in solidarity to support the campaign to seek justice for the victims of war crimes. The branches of Nirmul Committee and Jatiyo Samannay Committee were formed across the UK and in other parts of Europe.
- On the 13<sup>th</sup> of April 2005, the European Parliament passed as a resolution on Bangladesh expressing its support for the demand by secular and Muslim political forces in Bangladesh, of the Trial of those who are known to have participated in the massacre of Bangladeshi citizens and in the other war crimes during 1971. The UN has also assured Bangladesh of assistance in initiating war crimes trials. In this context, the UK branch of the Nirmul Committee has been at the full front of demanding justice and exposing the crimes of war criminals and their networks in the UK and Europe. Furthermore, the Bengalees in the UK have successfully lobbied with British MP's, Peers and Member of European Parliament (MEPs) to raise the issue at both in the UK Houses of Parliament and the European Parliament.
- At present, there prevails a state of excitement about the war trials in the Bengalee community in the UK and many relevant programs are being undertaken consequently. In the month of June, two seminars took place at the British House of Lords, both stating the importance of trial to stop the culture of impunity and to seek justice for the victims of war. The first one was held on June 19, organized by BanglaCarta21, a London based forum of young progressive Bangladeshi lawyers, at the British House of Lords, to discuss the legal aspect of trials of the war criminals of Bangladesh. The seminar was chaired by Baroness Pola Uddin. The second was held on June 22 and was chaired by Lord Avebury, vice chair of UK All-Party Parliamentary Human Rights Group and Chairman of International Bangladesh Foundation.

#### **Patrick Burgess, Asia Director, ICTJ**

In his paper, he put together some comments on Transitional Justice and prosecutions. Moreover, a brief general outline of the role of Truth and Reconciliation has been given.

#### **Key points of the paper:**

- Transitional Justice is in no way a replacement for justice, for prosecution of those responsible, but incorporates the idea of justice as a central pillar of the idea. However the Transitional Justice model does maintain the firm belief that prosecutions alone will not be sufficient if we wish to heal the wounds of the past. We also need to uncover the complete truth, to stimulate the public debate and awareness focused on the past, to do what is possible to recognize the sufferings of the victims and attempt to rehabilitate them both morally and physically, and finally, to reform the institutions. Thus it makes sense to speak of Transitional Justice as a holistic approach.
- Bangladesh will face many challenges in investigating and prosecuting offences which took place 38 years ago. It has to be ensured that investigations are conducted professionally, objectively and impartially, and that any subsequent trials are conducted in accordance with international standards. If this does not happen then the goals of national healing and reconciliation may be severely undermined. In the cases of Cambodia, Sierra Leone and Timor Leste, a choice has been made to ensure a certain level of perceived and actual objectivity through the establishment of a 'hybrid' tribunal model which includes both international and national judges and prosecutors. Bangladesh has chosen to conduct the trials on a purely national model. However, this increases the pressures to ensure that the process is a credible one, and that justice is not only done, but is seen to be done.
- Another challenge that Bangladesh may face is the decay of evidence. This is true both for physical and forensic evidence and for the memories of witnesses.
- The investigators, prosecutors, defense counsel and judges will face a challenge to deal with highly complex and unfamiliar legal concepts and principles. National criminal justice systems are designed for situations in which there is general peace and security, and serious crimes are committed as an exception. The opposite is true when a country faces a situation of war or mass atrocities. For example, in normal

domestic crimes the actor himself or herself is responsible for the crime. On the contrary, in situations of mass violence, the commanders rather than the direct actors bear the greatest responsibility. International law recognizes that a commander may commit a crime by failing to take effective steps to prevent or punish those under his control who are involved in serious crimes, even if he gave no specific orders.

- Truth and Reconciliation Commissions (TRCs) play an important role in portraying an accurate picture of what had actually happened. Unlike the courts, the TRCs are not limited to accepting evidence which is relevant to a particular case. However, the TRCs will also not be able to take any direct action against any individual who is found to have committed a crime. The TRC is usually given a mandate which allows it to gather all available information, to take statements, undertake research, and hold public hearings. In this way, the commission finds out not only about particular cases, but also about ‘the big picture’ of what has occurred.

### **Dr. Suzannah Linton, Faculty of Law, University of Hong Kong**

The learned panelist presented an overview of options that will be of help in dealing with the past legacies of Bangladesh. She also shared some important ideas and thoughts which can help Bangladesh to initiate the war trials and hence, pave the way for social repair.

#### **Key points of the presentation:**

- It is important to link the past to the present and the future in order to deal with the legacies of the past. It is necessary to find the answers to some hard questions to establish this desired linkage. Moreover, discussions and consultations are required to determine what is best for Bangladesh as a whole, in accordance with the wishes of the common people.
- In any attempt to deal with the past, there are certain goals that are to be achieved. These are accountability, justice, social repair, change, reconciliation and reparation. But these goals cannot be achieved without a clear understanding of the terms in the general context and also in the context of Bangladesh. It is necessary to understand what the people, the government and the international community wants.
- Bangladesh should critically examine what has been done elsewhere and should look at the evidence of what works and what does not, and also what has been a waste of time and what has not.
- It is necessary to raise international awareness and tie into the ICC ratification campaign. Public dialogues should be encouraged all over the country in order to raise local awareness.
- Suitable persons may be sent to observe and learn from the proceedings of war trials of different countries like Cambodia, South Korea, Rwanda, Bosnia, Sierra Leone, Liberia and also from the work of ICTY, ICTR and ICC.
- A preliminary international commission of inquiry comprised of independent experts may be set up as a starting point in order to provide informed recommendations on what to do.
- The local staff such as the investigators, forensic pathologists and anthropologists, police, judges should be trained in international criminal law. This long term process will require funding, which may be tried by approaching the ICC.

#### **Observations from the Open Discussions:**

- Truth and Reconciliation Commission can be implemented only if the perpetrators confess their crimes. This was the case in South Africa. But in Bangladesh the perpetrators are yet to confess their guilt. So the possibility of establishing the Truth and Reconciliation Commission in Bangladesh appears to be remote.
- Judiciary and police must be reformed, but not according to the US legal system. Reforms should be such that Bangladesh is benefited the most.

- In spite of the necessity of international assistance and funding, we should not be influenced by other countries.

**At this juncture, the floor was opened to enable all the participants of the Conference to voice their opinions and views on the broad issue of the Trials. The following observations were received from the round table discussions:**

- The International Crimes (Tribunal) Act, 1973 is not up to international standard. If the legislature is not developed according to international standards, the outcome of the trials may not bring the desired results.
- The investigation processes associated with the trial processes are not general, as in the cases of domestic law. There is lack of expertise and experience to conduct such special investigations.
- There exists a state of euphoria about war trials in the society, mainly because of the pro-liberation government. But the common people are unaware of the complexity of the process. To make the people aware of the complexity, the media has to play an active role.
- In order that the Bangladesh genocide gets recognition from UN, the media has a strong role to play.
- The trial of war crimes is undoubtedly a national and domestic issue. But it is not possible without global recognition and assistance, and for which, pro-active diplomatic initiatives are required. Therefore, the Bangladesh government should develop a pro-active diplomatic campaign.
- Many organizations are working on the issue of war trials. It is high time that there should be some kind of coordination amongst these organizations.
- The anti-liberation forces are still very much active and are trying to destabilize the process of the war trials and the society as a whole. A significant part of our economy is controlled by them. So, the smooth economic functioning of the anti-liberation forces should be curtailed as much as possible.
- If trials are held and the self declared war criminals are unpunished, their crimes will become legalized and consequences will become even worse. So, trials should be initiated with a great amount of concrete evidence.

**Closing Session:** 5:00 PM

**Master of Ceremony:** Aly Zaker, Liberation War Museum

**Special Guest:** Captain (Retd.) A B Tajul Islam, State Minister of Liberation War Affairs

**Chairperson:** National Professor Kabir Chowdhury

According to the state minister of Liberation war affairs Captain (Retd.) A B Tajul Islam, there are three steps that should be taken into consideration:

- To give recognition to those who sacrificed during the Liberation War.
- To deliver justice to the victims by conducting the trial of war criminals.
- To take measures so that the Bangladesh Genocide can gain due recognition from the international community.

# **DECLARATION OF THE SECOND INTERNATIONAL CONFERENCE ON GENOCIDE, TRUTH AND JUSTICE**

DHAKA, BANGLADESH

JULY 31, 2009

The Second International Conference on Genocide, Truth and Justice , organised by Liberation War Museum was held in Dhaka, Bangladesh on July 30 and 31, 2009. The Conference was held at a time when the demand for the trials of the perpetrators of genocide and war crimes in 1971 has become alive again in the public domain, especially amongst the younger generation highlighting that the brutalities and the trauma of the 1971 Genocide is recognised in the various international fora, so that the lessons of the Bangladesh Genocide may help to prevent other genocides. The holding of the Conference was also significant in the context that the young generation in Bangladesh has given the demands for the Trials their unequivocal endorsement through the national election of December, 2008. The government on the other hand, has given the priority which the Trials deserve, to have taken it up in the first session of the new Parliament where it was unanimously accepted by all the parties. The 1973 International Crimes (Tribunal) Act was also ammended by the Parliament to make it suitable for holding the trial in the changed circumstances of today. It is hoped that the Tribunal will be formed soon, the prosecutors appointed and the investigative agencies constituted.

This Conference expresses its approval for the processes which have been initiated for the Trials. The Conference also recommends that the nation take lessons from the experience and expertise that are available from the other Tribunals and institutions, especially when formulating the rules and procedures of the proposed Tribunal.

This Conference also highlights the need to take supportive and complementary actions and programmes such as the memorialization, collection and processing of the testimonies, addressing the issues of the victims' suffering, recognition of the victims rights and most importantly, ensure the broad involvement of the community with the trial process.

The Conference also recognizes that at this important juncture, Bangladesh needs to learn from the experiences which other countries have gained about concepts such as dealing with transitional and social justice and the ways and means to address the complexities in the post-conflict society. Important amongst them are issues of trauma, suffering of women, remedies and reparation of victims, witness protection, extradition, avoiding delay in justice etc which would need to be studied further.

This Conference reiterates that it will make efforts to promote research on genocides, particularly on the Bangladesh Genocide and undertakes to promote the setting up of centres of Genocide Studies both at home and abroad. It will encourage other institutions to take up programmes so the issue of the Trial stays alive in the public forum.

The Conference also highlights the need to establish various networks and build alliances both nationally and internationally with other organizations having the same objectives.

This Conference calls upon the media and the civil society within the country and abroad to launch a campaign for the universal recognition, especially in the UN, of the Bangladesh Genocide.

## **Resolution**

### **About the Ratification of the Statute of International Criminal Court**

The Second International Conference on Genocide, Truth and Justice held in Dhaka, Bangladesh on 30 and 31 July, 2009 notes the historical fact that the newly liberated Bangladesh in 1974 initiated a significant act by organizing international seminar on the issue of the establishment of International Criminal Court and subsequently became one of the early Asian countries to sign the Statute of Rome to establish the International Criminal Court. Bangladesh, one of the worst victims of Genocide in the 20th century, has enacted in 1973 'International Crimes (Tribunal) Act' to establish truth and justice and has amended the law in 2009 to initiate the trial process of the perpetrators of genocide, crimes against humanity and war crimes. At this important juncture in the history of Bangladesh it is expected that Bangladesh will take necessary measures to complete the process of ratification of the ICC Statute and fulfill the formalities of the UN instruments of ratification of the ICC.

## **Resolution**

### **International Day to Remember and Renew the Commitment for Peace**

Liberation War Museum in organizing the Second International Conference on Genocide, Truth and Justice on 30 and 31 July, 2009 in Dhaka, Bangladesh recollects the memory of global solidarity with the struggle of Bengali people in 1971 which paved the way to liberation. An unprecedented movement of solidarity developed in many parts of the world and one of the finest expression of such acts was the publication of the large format booklet "Testimony of the Sixty", where sixty leading political persons, journalists, academics, peace activists, artists and aid-workers put their understanding of Bengali peoples' plight in writings, drawings or photographs and called for action to heal the wounds. The booklet was published by OXFAM, UK on 21 October, 1971 and was delivered to all the Heads of Governments in different countries of the world on the same day.

Liberation War Museum proposes to observe the occasion as a "Day to Remember and Commitment for Peace" and will organize the delivery of the "Testimony of the Sixty" to respective governments in the countries of the world on that very day with cooperation of expatriate Bangladeshis and the peace-

loving people everywhere. While observing the day LWM would like to thank those people who stood at the side of Bangladesh during its period of crises.

Expressing the peoples gratitude LWM would also like to draw attention of the people and Governments of various countries to the great effort of the people and the Government of Bangladesh to bring the perpetrators of the genocide, war crimes and crimes against humanity to justice. After long denial of 38 years, passing through many obstacles Bangladesh has created the opportunity to organize the trial under the national legislature of “International Crimes (Tribunal) Act of 1973 as amended in 2009”.

This trial of crimes against humanity will be held on behalf of all humanity and Bangladesh is calling again for solidarity of the world community to establish justice and build a peaceful future for all.



Dear organizers of:  
Second International Conference on Genocide, Truth and Justice,  
Liberation War Museum,  
Dhaka, Bangladesh.

As you know, justice with regard to the atrocities of the events surrounding the independence of Bangladesh in 1971 has been delayed for thirty eight years. Kean University is therefore continuing its efforts to enlighten the public about those responsible for the war crimes and crime against humanity that occurred. Its second annual conference on Bangladesh titled “*Bangladesh 1971: Addressing claims of War crimes, Genocide and Crimes against Humanity*” will be held on Sunday, October 18, 2009. The conference draws attention to efforts underway in Bangladesh to hold perpetrators responsible for crimes committed in 1971.

The Human Rights Institute at Kean University facilitates and supports endeavors that address human rights violations. It organizes and hosts its Annual Human Rights Conference. The Human Rights Institute publicly recognizes the necessity of addressing the regional conflict resulting in egregious violations of human rights in Bangladesh in 1971 and of the need to do so at an international level. This seminar is the second since 2007 to address the murder of “*probably 300,000 and possibly 1 million fellow Muslims and minority Hindus in Bangladesh in 1971*” (Ben Kiernan, *Blood and Soil*, page 572). For more detail please consult the agenda of the seminar that is attached to this letter.

The goal of the conference is to scrutinize the atrocities of 1971 from the observational standpoint of a citizen who identifies with the whole of humankind, free from parochial interests, partisan terms, and cultural biases, rather clarifying common, shared interests. Supplementary goals emphasize the common human interest in the international protection of human rights together with the interdependent basis that human rights are enjoyed by individuals as a function

of what others can enjoy. The genuine worldwide consensus on the acceptable treatment and perspectives of human beings in the contemporary world is the International Bill of Human Rights. Kean University's conference is particularly timely because of the current initiative of the government of Bangladesh to bring perpetrators of the atrocities of 1971 to justice. The ongoing debate in the country as to whether it should be an international or domestic trial deserves our attention.

The conference focuses upon the scholar's responsibility of enlightenment as well as the decision-maker's responsibility of the consequences of his and her decisions and the right kinds of policy choices.

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The conference considers that whether or not human beings live in dignity and justice is a function of human rights and that egregious abuses need to be addressed and individuals charged with crimes that violate universally recognized rights along with conciliatory purposes, as exemplified by a truth and reconciliation commission and Marshall plan.

This conference series will investigate critical issues regarding the atrocities of 1971 with interdisciplinary lenses. It will present eyewitness accounts of victims, family members and freedom fighters. To understand the violent interactions and institutional practices of the day, consideration will be given to the participation (individual, group, government, nongovernmental), perspectives (demands, identifications, and expectations), situations (geographic, temporal, institutional, and crisis), bases of power (authoritative, controlling), strategies (diplomatic, ideological, economic, military), and outcomes (shaping and sharing values) employed.

The Kean University conference has a fourfold agenda: to record testimony of the persons aggrieved by the incredible events of 1971 in Bangladesh and memorialize their names; to bring to trial the perpetrators of the atrocities of 1971 and consider alternative and additional forms of justice including the truth and conciliation of the aggrieved; to develop and institutionalize university courses at Kean and elsewhere on atrocities that analyze the horrendous events of 1971 and compare them with those in other countries such as Indonesia and Biafra; and engage participants from the public and academic communities around these issues in interdisciplinary annual conferences. For more information about the conference please log on to [www.kean.edu/~bgsg](http://www.kean.edu/~bgsg) or email at [bgsg@kean.edu](mailto:bgsg@kean.edu).

We invite cooperation from all the members of Liberation War Museum as well as other individuals dedicated to human rights.

We wish success to your wonderful effort of putting together the *International Conference on Genocide, Truth and Justice*.

Yours truly,





Hank Kaplowitz, Ph.D.  
Director  
Human Rights Institute

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### Second International Conference on Genocide, Truth and Justice

30-31 July, 2009

#### Participants list

<u>Sl</u>	<u>Name</u>	<u>Organisation</u>
1.	Dr. Suzannah Linton	Hong Kong University, Hong Kong
2.	Dr. Chanwahn Kim	Graduate School of International and Area Studies, Seoul Korea
3.	Helmut Scholz	Member, EU Parliament, Germany
4.	Ms. Halina Wawzyniak	Human Rights Lawyer, Germany
5.	Professor Ohashi Masaaki	Kiesen University, Tokyo, Japan
7.	Dr. David Matas	Canada
8.	Constanze Oehlrich	ECCC, Cambodia
9.	Nafia Tasmin Din	Extraordinary Chamber in the Courts of Cambodia (ECCC), Cambodia
10.	Dr. Syed Anwar Husain	Dept. Of History, Dhaka University
11.	Dr. Mizanur Rahman	Dept. Of Law, Dhaka University
12.	M J Noman	Dept. Of Law, Chittagong University
13.	Rubayat Hossain	Freelance Researcher
14.	Lt. Gen. Harun-ur-Rashid	Sector Comanders Forum
15.	Rumana Islam	Dept. Of Law, Dhaka University
16.	Nasima Selim	BRAC University
17.	Professor Shah Alam	Dept. Of Law, Chittagong University
18.	Md. Habibur Rahman	Mutual Trust Bank LTD.
19.	Dina Siddiqi	BRAC University
20.	Rashiduddin Ahmad	Dept. of Neurosurgery, Bangladesh Sheikh Mujib Medical University

21.	Ad. SK Mizanur Rahman (Mukul)	Society for Human Rights & Education
22.	Tahmina Khan	Projonmo '71
23.	Dr. A K M Golam Rabbani	Dept of Islamic History and Culture, Dhaka University
24.	Brig. (Retd) Shahadul Anam Khan	The Daily Star
25.	Niko Richter	NETZ, Bangladesh
26.	Fauzia Khan	Filmmaker
27.	Nasir Ahmed	Dept. of History, Jagannath University
28.	Dr. Sarkar Ali Akkas	Dept. of Law, Rajshahi University
29.	Shafina Lohani	Sirajgonj Uttaran Mohila Sangstha (SUMS)
30.	Prof. Abdul Mannan	University of Liberal Arts, Bangladesh
31.	Farzana Mannan	Independent Researcher
32.	Advocate Molla Moqbul Hossain,	UNAB
33.	Hena Sultana	Bharoteshwari Homes, Mirzapur
34.	Ram Lal Raha	Bangladesh Mahila Parishad
35.	Baby Naz Karim	Shaheed Syed Nazrul Islam College
36.	Farida Banu	Martyrs Family
37.	Mesbah Kamal	Dept. of History, Dhaka University
38.	Tazreena Sazzad	American University of Bangladesh
39.	Md. Selim Toha	Islamic University, Kushtia
40.	Maya Wahed	The Flowers KG & High School
41.	Sohrab Hassan	Daily Jugantor
42.	Hameda Hossain	Ain O Salish Kendra
43.	Md. Touhidul Islam	Dept. of Peace & Conflict Studies, Dhaka University
44.	M. Jashim Ali Chowdhury	Northern University, Bangladesh
45.	Md. Mamunur Rashid	Dept. of History, Jagannath University
46.	Murshid Alam Khan	Khilgaon Model University College
47.	Quazi Rosy	Writer
48.	Dr. Khabir Uddin Ahmed	Dept. of Law, Chittagong University
49.	A B M Abu Noman	Dept. of Law, Chittagong University
50.	A.K.M. Jasim Uddin	Dept. of History, Jahangirnagar University
51.	Eeshita Dey	Ain O Salish Kendro
52.	Dr. Mohammad Salim	Dept. of History, Jagannath University
53.	Zakir H. Majumder	University of Liberal Arts Bangladesh
54.	Dr. Abu Md. Delwar Hossain	Dept of History, Dhaka University
55.	Mohammad Humayun Kabir	Dept of Islamic History and Culture, Dhaka University

56.	Abdul Basir	Dept of Islamic History and Culture, Dhaka University
57.	Ashfaque Hossain	Dept of History, Dhaka University
58.	Samia Israt Ronee	Ministry of Foreign Affairs
59.	David Bergman	Researcher
60.	Ranojit Kumar Paul	Shalmara Nischintopur High School
61.	Hasina Ahmed	Centre for Social Studies
62.	Wali-Ur Rahman	BILIA
63.	Dalem Ch. Barman	Dept. of Peace and Conflict Studies, Dhaka University
64.	Sara Hossain	Dr. Kamal Hossain and Associates
65.	Group Captain Md. Humayun Kabir	National Defence College
66.	Professor Dr. Morshed Shafiul Hasan	Dept. of Law, Jagannath University
67.	Shafiqur Rahman	Dept. of Law, Jagannath University
68.	Masuda Bhatti	Rights & Media for People, UK
69.	Dr. Shamsun Nahar	Dept. of History, Jagannath University
70.	Dr. Khabir Uddin Ahmed	Dept. of Law, Chittagong University
71.	Md. Abdur Rahim	Nawab Faizunnesa Govt. Girls High School
72.	Mamun Or Rashid	Protection Rights Trust
73.	Mamtaz Latif	Writer
74.	Anwara Syed Hoque	Writer
75.	Ayesha Khanam	Bangladesh Mahila Parishad
76.	Md. Shamsul Alam	Projonmo `71
77.	Md. Suman Zahid	Projonmo `71
78.	Major Gen Masudur Rahman, BP (Retd.)	Sector Commanders Forum
79.	Ramendu Majumder	International Theater Institute
80.	Nusrat S Chowdhury	The University of Chicago
81.	Shaheen Anam	Manusher Jonno Foundation
82.	Tahmima Anam	Author
83.	Masum Billah	Northern University
84.	Mofidul Hoque	Liberation War Museum
85.	Dr. Sarwar Ali	Liberation War Museum
86.	Aly Zaker	Liberation War Museum

87.	Ziauddin Tariq Ali	Liberation War Museum
88.	Rabiul Hussain	Liberation War Museum
89.	Asaduzzaman Noor	Liberation War Museum
90.	Sara Zaker	Liberation War Museum
91.	Akku Choudhury	Liberation War Museum
92.	A. K. M. Mahbub Ul Alam	Liberation War Museum
93.	Chandrajit Singha	Liberation War Museum
94.	Rafiqul Islam	Liberation War Museum
95.	Amena Khatun	Liberation War Museum
96.	Md Kamal Uddin	Liberation War Museum
97.	Ranajit Kumar	Liberation War Museum
98.	Hasan Ahmed	Liberation War Museum
99.	Tabassum Mokhduma	Dept. of Law, Chittagong University
100.	Md. Khairul Islam	Dept. of Law, Jagannath University
101.	Raisin Jahan	Law Dept. Dhaka University
102.	Mahmudul Haque Raj	Law Dept. Dhaka University
103.	K.M. Shazzad Mohashin	Law Dept. Dhaka University
104.	Md. Rezaur Rahman	Law Dept. Dhaka University
105.	Md. Rezaur Rahman	Northern University Bangladesh
106.	Moein Uddin Chowdhury	Premier University
107.	Rista Binte Siddique	University of Rajshahi
108.	Mohammad Younus Khan	Dhaka University
109.	Zahid Ahammad	University of Dhaka
110.	Sadiqul Islam	University of Rajshahi
111.	Arpeeta Shams Mizan	University of Dhaka

## Second International Conference on Genocide, Truth and Justice

30-31 July, 2009

Organized by

Liberation War Museum, Dhaka, Bangladesh

Venue : CIRDAP Auditorium

**30 July, 2009**

- 9-30 AM : Opening Session  
Master of Ceremony : Mofidul Hoque, Co-ordinator, Second International Conference on Genocide Truth and Justice  
Address of Welcome : Akku Chowdhury, Trustee, Liberation War Museum  
Speakers : Dr. Suzannah Linton, Dr. David Matas, Helmut Scholz  
Guest of Honor : Barrister Shafique Ahmed, Honorable Minister, Ministry of Law and Parliamentary Affairs  
Chair : Prof. Salahuddin Ahmed
- 11-00 AM : Tea-break
- 11-15 AM : Plenary Session-1  
Rumana Islam, Department of Law, DU: **Trial of War Criminals of 1971 : An Appraisal**  
A.B.M Abu Noman, Chittagong University : **Transitional Justice and Witness Protection : Bangladesh Perspective**  
Dr. David Matas : **Experiences of ICC and the Trial of Perpetrators**  
Open Discussion  
Chair : Dr. Suzannah Linton, Hong Kong
- 1-00 PM : Lunch-break
- 2-00AM : Plenary Session-2  
Dr. Syed Anwar Husain : **Genocide in Bangladesh, 1971 : Fixing Responsibility**  
Helmut Scholz – Member, EU Parliament, Germany  
Ahmed Salim, Pakistan: **Documents and Statements from the Pakistan Press in 1971**  
Open Discussion  
Chair : Dr. Chanwahn Kim, Korea
- 3-30 PM : Tea Break
- 3-45 PM : Plenary Session -3  
Prof. Chanwahn Kim (Korea) : **The Role of India on the Prisoners of the Korean War**  
Bina D'Costa, Research Fellow, The Australian National University : **Partnership with Transnational Networks for a Gender Sensitive Justice Mechanism**  
Constanze Oehlich /Nafia Tasmin Din, Cambodia: **Victims Unit and role of the victims in the Cambodian Court of Trial**  
Open Discussion  
Chair : Ms. Halina Wawzyniak, Germany
- 5-15 : Closing

**31 July, 2009**

- 9-30 AM : Plenary Session-4
- Prof. Ohashi Masaaki, Japan : **Japan's Indigenous People and Unrecorded Slow Genocide**
- Lt. Gen. (Retd.) Harun-ur-Rashid, Sectors Commanders Forum : **Bangladesh Genocide and the Campaign for the Trial**
- Dr. Mizanur Rahman Dept. of Law, Dhaka University : **Genocide 1971 : Bringing the Perpetrators to Justice**
- Open Discussion  
Chair : Dr. David Matas, Canada
- 11-00 AM : Tea-break
- 11-15AM : Plenary Session- 5
- Rubaiyat Hossain : **Trauma of the Birangana, Trauma of the Nation: A Feminist Discourse of Izzat**
- Nayanika Mookherjee, UK : **Ethical Features and representation of narratives of Sexual Violence of the Bangladesh War of 1971**
- Dr. Nasima Selim, Brac University : **Ekattorer Debidas : The 'unusual' protest and plight of a 'living martyr' of the Liberation War**
- Open Discussion  
Chair : Constanze Oehrich, Cambodia
- 1-00 PM : Lunch-break
- 2.00 : Plenary Session-6
- Halina Wawzyniak, Human Rights Lawyer, Germany :
- Ansar Ahmed Ullah, UK : **Building an International Network: Campaign to seek justice & the efforts in the UK**
- Patrick Burgess, Asia Director, ICTJ : **An Informal Reflection on Truth and Justice in Bangladesh**
- Dr.Suzannah Linton : **Dealing with the Legacies of the Past : Thoughts on the Way Forward for Bangladesh**
- Open Discussion  
Chair : Helmut Scholz, Germany
- 3-30 PM : Tea Break
- 3-45 PM: Round Table Discussion on the **Process of Trial in Bangladesh and the Role of the Civil Society**
- Adaptation of the Declaration
- 5-00 PM : Closing Session
- Master of Ceremony : Aly Zaker, Trustee, Liberation War Museum
- Special Guest : Captain (Retd) A B Tazul Islam, State Minister for Liberation War Affairs
- Chair : National Professor Kabir Chowdhury