

THE 1971 MASSACRE OF INTELLECTUALS IN BANGLADESH: GENOCIDE?

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ABSTRACT

Bangladesh (before East Pakistan) achieved its independence in 1971 after a nine months' atrocious war against Pakistan (before West Pakistan). Pakistani military along with Bangladeshi collaborators (known as Razakars, Al Badars) brutally killed and attacked East Pakistani civilians to repress the revolution for a sovereign state which ultimately cost three million individuals' lives, thousands of women's respect, and millions of people's displacement from their homeland.¹ In March 2010, after 40 years of this war, Bangladesh ratified the Rome Statute and the same week, "announced the establishment of a special war crime tribunal that will bear cases against individuals accused of war crimes during the 1971 Bangladesh Liberation War."² Since then the Tribunal made charges against several individuals who were part of the atrocities in 1971 war under crime against humanity, this paper will analyze, whether the killing of hundreds of intellectuals in the month of December by Pakistani Army and their Bangladeshi associates can be considered as a Genocide under Article 03 (02) (c) of the International Crimes (Tribunals) Act 1973³ which is almost identical to the 1948 Genocide Convention. For this, the "intellectuals" are needed to be considered as a "protected group" under the Act and the "Special Intention" of the perpetrators to destroy the Intellectuals of Bangladesh "wholly or in part" needed to be proved which is the eventual continuation of this article till to the conclusion. Lastly, killings of intellectuals have been implemented in a planned way historically in many previous atrocities. So, it is to be discussed more under international criminal law that whether the intellectual killing can be recognized as a separate protected group as intellectuals are also targeted as being a distinct group in a particular state.

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¹ Manes, David, Bangladesh Establishes Tribunal for 1971 War Crimes, *JURIST* (March 26, 2010), at <http://jurist.org/paperchase/2010/03/bangladesh-establishes-tribunal-for.php>. Last visited on April 17, 17.

² Arce, Dwyer, Bangladesh War Crimes Tribunal Issues Arrest Warrants for Islamist Leaders, *JURIST* (July 26, 2010), at <http://jurist.org/paperchase/2010/07/bangladesh-war-crimes-tribunal-issues-arrest-warrants-for-islamist-leaders.php> last visited on 16.04.2017 (noting that the Rome Statute only has the authority to exercise jurisdiction over crimes committed since its formation in 2002; ratifying the statute merely compels Bangladesh to ensure its laws are in accordance with the statute).

³ The International Crimes (Tribunals) Act, 1973 (Act No. XIX of 1973) at http://bdlaws.minlaw.gov.bd/pdf_part.php?id=435 . Last visited on April 15, 17.

I. FROM 1947 PARTITION TO 1971 LIBERATION WAR

After the ending of the British colonial era in 1947, the whole region was partitioned into two countries, India and Pakistan where Pakistan was consisted of East Pakistan (now Bangladesh) and West Pakistan (modern Pakistan) and these two lands were separated by approximately 1,600 kilometers of Indian territory. The Western part consisted of the provinces of Sind, Baluchistan, North-West Frontier Province (NWFP), and a divided section of the Punjab, while the Eastern part consisted solely of East Bengal.⁴ Several ethnic groups and religions, predominantly Muslim and Hindu Bengalis were inhabitants of East Pakistan while West Pakistan was consisted of only Muslims which is more than 85 percent, being in the power of the most political, military, and economic power throughout the country.⁵

The Muslim League, the first ruling party of Pakistan, decided to make Urdu the only official language of Pakistan where East Pakistanis' mother language was Bengali. The dominant class of West Pakistan spoke with Urdu including the leaders of the Muslim League, gave the explanation that Urdu has similarities with Arabic and Persian which made it more "Islamic" where "Bengali" has similarities with Sanskrit which made it more "Hindu" so Urdu should be the official language of Pakistan.

In his first trip to East Bengal on March 21, 1948 at Dhaka (then Dacca) the Governor-General Jinnah declared:

"Let me make it clear to you that the State Language of Pakistan is going to be Urdu and no other language. Anyone who tries to mislead you is really the enemy of Pakistan ... so far as the State Language is concerned Pakistan's language shall be Urdu"⁶

The Bengalis did not accept Jinnah's claim and continued their resistance to the imposition of Urdu language which led to February 21, 1952 when police fired on students and bystanders protesting for their mother language.⁷ From then, Bengali got established as East Pakistan's official language and 21 February is celebrated as National Mother Language Day all over the world.

⁴ Akram, Tanweer, "The Bangladeshi Genocide of 1971", Working Paper, *Allied Social Sciences Association*, (January 05, 2007), at p. 04, at < http://papers.ssrn.com/sol3/papers.cfm?abstract_id=984686>. Last visited on May 15,17.

⁵ Akram, Tanweer, "A Critical Evaluation of International Commission of Jurists' Report on Bangladesh Genocide", Working Paper, at p. 02 (Apr. 2, 2007), at http://www.awamibrutality.com/file/tanweer_akram_eval_icj_report.pdf.. Last visited on May 14,17.

⁶ Rahman, Hasan Hafizur, "The History of Liberation Struggle of Bangladesh", *Ministry of Information, Government of the People's Republic of Bangladesh*, Dhaka, 1980.

⁷ See Akram, *supra* note 04, at p. 06.

The economic centralization and the expropriation of wealth of East Pakistan by the West Pakistan continued in full swing. In the financial year 1948-49, the allocation for provincial development expenditure was as the following table indicates⁸:

| Province | Amount Allocated In million rupees |
|-----------------------------------|---------------------------------------|
| East Bengal | 40 |
| Punjab | 50 |
| Sind | 25 |
| NWFP | 5 |
| Source: Central Statistics Office | |

The ongoing differences between Pakistan (then West Pakistan) and Bangladesh (then East Pakistan) rose to a higher level during the national election held in December 1970 where the Awami League, led by Sheikh Mujibur Rahman, won 167 of 169 of East Pakistan's seats in the national assembly.⁹ Following a postponement of the national assembly in early 1971, Mujibur and the then President of Pakistan, Yahya Khan, commenced diplomatic talks in Dacca regarding the formation of a new government. These negotiations were considered to be a "smoke screen" which actually allowed the Pakistani force to strengthen its military competence and bought time for the army "to transfer military equipment and armed personnel from West Pakistan to East Pakistan in order to carry out a crack down on Bengali political leadership and the nationalist movement."¹⁰ On March 25, 1971 at 11.00 p.m., the military troop moved from barracks to the populated urban areas and started "Operation searchlight" by killings, rape, violence and looting indiscriminately. Sheikh Mujibur Rahman declared Independence before he was arrested by the military. The purpose of this attack was to destroy Bengali nationalism and self-determinism. A Pakistani officer rationalized the military action thus:

We will kill them [Bengalis]---they have spoken enough---they are traitors, and we are not. We are fighting in the name of God and a united Pakistan.¹¹

Along with this Pakistani army, the Islamic parties like Jamat-e-Islami, Al-Badr of East Pakistan supported in killing innocent civilians of East Pakistan by killing unanimously, raping women including sexual slavery, enforced prostitution, forced pregnancy and enforced sterilization. It is estimated 200,000 Bengali women and girls were raped, 25,000 of which

⁸ See Akram, *supra* note 04, at p. 07.

⁹ MacDermot, Q. C. Niall, "Crimes Against Humanity in Bangladesh," 7 (1973), *The International lawyer* 2, at p. 2.

¹⁰ See Akram, *supra* note 05, at p. 04.

¹¹ See Akram, *supra* note 04, at p. 19.