

Law and Our Rights

"All citizens are equal before law and are entitled to equal protection of law"-Article 27 of the Constitution of the People's Republic of Bangladesh

What Is To be Done About the War Criminals and Collaborators

THE issues of war criminals and collaborators refuse to go away in Bangladesh even after years of independence.

With the assumption in power of Awami League in 1996, various demands about war criminals and collaborators received for essentially two reasons: Firstly, the party that led the liberation war in 1971, being back at the helm of the affair, would take decision on its own volition about the criminals and collaborators. Other reason was, as the Awami League had to tread on very thin line to come back to power after so many years, thus many chose not to rock the boat at the very outset.

In many ways, the issues of liberation war and its spirit and aspirations of independence were seen as exclusive Awami League matters. The two major parties, BNP and JP, those alternately ruled the country, freely did include, within their folds, persons with serious questionable roles in the liberation war. This and other policies to change basic ideals of independence alienated both these parties. The responsibility, thus, have fallen on Awami League, whether rightly or wrongly.

However, as the best part of the Awami League's term in office has passed, but the government has not even uttered a word. So, there are again increasing talks about the war criminals and collaborators.

It, however, must be accepted that matters of war criminals and collaborators are not on the top of the agenda of the general mass in Bangladesh. Majority are pre-occupied with problems relating to mere survival and to meet bare necessities. To them, prices of daily commodities, insecurity etc, are far more important now, and obviously so.

Recently, United States Senate has adopted a legislation titled "Denying Safe Havens to International and War Criminals Act of 1999". When for the first time, it has empowered the Attorney General, among others, to transfer international criminals in custody for prosecution. The Immigration and Naturalisation Service to deny admission or remove aliens who have committed torture abroad.

In February 1999, Belgium has adopted a law on crimes. Empowered by this new legislation, on 22 November 1999, a Brussels engineer has filed a case, seeking extradition to Belgium of Morocco's recently sacked interior minister.

Recently, Truth Commission in South Africa, apologies of British and Dutch Queens, prosecution of senior official of French collaborator government Pappon, agitate minds across the world. Especially, in Bangladesh where people were subjected to atrocities.

Thus, when General Pinochet has been arrested for torture and other crimes, now questions are being raised about Pakistani Generals. When International Tribunals have put people on trial, so questions are asked, then why tribunals should not try Pakistani war criminals. When US legislates no sanctuary law, then voices are raised from various quarters to focus attention on criminals and collaborators living in safe havens in USA and Canada.

Recently, discoveries of mass graves at Mirpur, Bangladesh have forced the discourse to the fore. First came the Muslim Bazar, where mosque extension bared the grisly past. Country's pioneer institution, Liberation War Museum, immediately went into action to excavate and reveal the truth.

Gradually, the Museum succeeded in exhuming some remains of genocide victims of 1971. After the Muslim Bazar excavation, the Museum authority excavated nearby Jallakhana (slaughterhouse) site, with the help of Bangladesh Army. They recovered 70 skulls and 5,392 various human bones.

The remains of genocide victims at Mirpur have been an "eye opener" for many, as people visited the sights. According to Museum's Director, "Most of those who have come forward in the actual excavation and exhuming work or extended their support in many ways, belong to the generation who either have not seen the liberation war, or they were very young at the time. The Army personnel those participated most also belonged to that generation."

In fact, the symbolic trial of Jamat chief Golam Azam on the 25th anniversary of our independence on March 26 1992, had triggered a wide movement in the nation demanding the trials of war criminals of 1971. The Mirpur mass grave discovery had been a massive reawakening of national consciousness on Bangladesh genocide. The bones and other effects hidden so long have come up to force their successors to re-visit history and conclude chapters on the war criminals and collaborators.

Even today, we do not find any outlined plan how to deal with the war criminals, and when it came up, the strategy

In addition, December and March ceremonies have almost compelled even the most relaxants to remember the victims of genocide and the brave martyrs.

Internet also has offered possibilities to transmit and transact information freely and fast, which has brought, almost literally, all kinds of people together. Expatriate Bangladeshi now communicate and contribute in ways which was never known before. Through dailies and weeklies published in Bangladesh, expatriates regularly contribute, thus adding the knowledge of the readers. They also daily update news on Bangladesh, through web-based Bangladesh and other newspapers.

This also has facilitated forming of groups with special interest among people living far apart. Naturally, in their discussion, war crimes and collaborators often feature prominently.

What Was Done

The government in exile, that had led the war of liberation, did not put any serious thought in record, about what would be its policy regarding war criminals and collaborators. Though, virtually from the day one, the leaderships had clear ideas about Pakistan's genocidal plans, and in its Declaration to form new government on 17 April 1971; they based their claims and referred to ongoing genocide as many as four times in that Declaration.

As a result, after liberation, on 16 December 1971, the new leadership was seen lacking any credible strategy to deal with the war criminals. What happened first, was the manifestation of mob anger, inherently indiscriminately. The new government tried to hold the public passion by repeated public announcements on radio not to take the law in hand, which was largely ignored. The Biharis, those by and large, aligned their fate with Pakistani soldiers, too faced public wrath.

The new government, after initial settlement, issued executive orders to arrest the collaborators. The Pakistani military, by then, went under Indian command and became Prisoners of War. Police carried out most of the arrests of the collaborators. Police also arrested member of the collaborating civilian government that aided the Pakistani genocidal army.

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lady and mother of a victim, Jahana Imam, took the responsibility onto herself. In her words, "Prompted by our commitment to the values of the liberation war and love for our country and aggrieved by the failure of the government to try the war criminals", the National Co-ordinating Committee for Realisation of Bangladesh Liberation War Ideals and Trial of Bangladesh War Criminals of 1971 was formed. Under its auspices, the symbolic public trial of Golam Azam was held.

The Co-ordinating Committee decided to unearth "evidence of complicity of all collaborators in war crimes, crimes against humanity, killings and other activities". It had set up an investigative body, National People's Enquiry Commission, to probe against selected individuals. The Commission had

Bangladesh or players came to play. One such organisation is the Movement for the Trial of War Criminals of 1971.

Again, what is seen here is incoherent, piecemeal and largely individual activism, which is probably going to lead the issues to nowhere. There are not even any effective networking between various organisations and activists.

What Should be Done:

Mrs.Jahana Imam's frustration still persists. The government, headed by the party that led the liberation war continues to fail to resolve the past, either by holding trials of the war criminals or otherwise.

The government has extended co-operation, and rightly so, by allowing the Army to help exhumation process, but is unable or unwilling to go further. The government, however, deserved thanks for such co-operation, but its inability to move in the right direction and to correct mistakes of the past governments are highly disappointing.

Thus, it's again the non-government actors to continue and invigorate the moves, but first of all, appropriate strategy has to be devised to achieve any meaningful success. And since qua non for such a strategy is wide consultation between the organisations and individuals involved in the process. Only by extensive consultation, we could possibly expect to proceed ahead in a significant way.

I have tried to outline probable options in some of my articles. Here, too, I shall attempt to elaborate further on aspects of the strategy to deal with the past.

Desirable and achievable:

In an ideal world, all the Pakistani soldiers, those who surrendered and others, who participated in genocide but left before December 16, and all the local collaborators, ought to have been brought to the book. That would have been highly desirable, but equally unrealistic.

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his future political rights, like voting or participation in political activities.

Much later, in July 1973, the Parliament legislated International Crimes (Tribunals) Act, 1973, targeted largely to the members of the armed forces of Pakistan. The Act envisaged setting up Special Tribunal, which however, never materialised.

By the time the Awami League government was overthrown in a bloody military coup in 1975, the issues of war criminals and the collaborators were virtually settled. All the Pakistani POWs were returned and local collaborators received unilateral amnesty without any corresponding commitment.

Until around 1990, the voices of the victims did not get any platform. A formidable

published two reports on sixteen criminals and collaborators, and by 26 March 1996, was supposed to publish report on another seven persons, that was never done.

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in its minute details, will never be known. But then again, there are others, which we

ought to have known but do not.

The government has caused volumes of documents on liberation to be published. A worth-while project indeed. But these volumes raise more questions than those answer.

The government should disclose all documents it had, relating to planning and execution of the genocidal plans after the Pakistani army surrendered. In a number of articles, it should also release dossiers about the war criminals.

From international

archives, informations are leaking out. One such notable

contribution has been the research work carried out by Professor Rahim at Nixon Library,

where he discovered new documents including other, documents revealing extent of US

knowledge, and roles of some

leaders like Mushtaque Ahmed.

His findings were serialised by the Daily Independent.

Collection and preservation:

When the National People's Enquiry Commission conducted investigation against the named war criminals, it discovered a great deal of documentation dating to the genocide period had been destroyed".

Although the Enquiry Commission failed to mention the nature or kinds of documents so destroyed, but those papers in government offices are believed to have been destroyed either deliberately or negligently.

Moreover, local history and documents should be preserved locally, and a central mechanism should be devised at National level to preserve evidences of genocide in totality.

Documentation and Accessibility:

Bangladesh genocide can be called as one of the most undocumented genocides of this century, and that has given rise to concoction and denial. For example, only major documentation is the one that published in 1988 on whereabouts of killers and collaborators.

Thus, the need of the hour is a massive effort to document Bangladesh genocide and to preserve those for the generation to come. Documents should be easily accessible to general public. In this matter, information technology, if used, will greatly help to document history of Bangladesh genocide. American archives are gradually opening up, and the two other most important sources are yet to open: archives of India and Pakistan. India has no reason not to open up its archive, and in case of

Pakistan, the pressure has to come from within.

Educating and Enlightening:

One of the major contradictions we find is absence of genocide studies in Bangladesh educational curriculum. After so many years of the genocide, neither the government nor the universities have even attempted to study Bangladesh genocide systematically and scientifically. The universities are yet to be on board in the study of Bangladesh genocide.

Dhaka University, only recently, announced to open a new discipline, Liberation War Studies.

The present generation must be enlightened about Bangladesh genocide and the responsibility of that rests on the government, on the educational authorities, and on the participants of the liberation war and also those witnessed the genocide.

Identification and Reconstruction:

The Liberation War Museum has exhumed numerous skulls and other human remains recently. Neither the Museum nor others have any clue about number of other mass graves scattered all over the country.

Expose and Profiles:

Like the genocide, we really have no idea about number of perpetrators belonged to local and Pakistani army varieties. How many Razakars para-military force established by law, were in Al-Badars, in Al-Shams or in members of Shanti Committee? How many Pakistani soldiers carried out genocide in Bangladesh? Number of Pakistanis taken as Prisoners of War was different stated, but what about others, those left before them?

Prosecution and Punishment:

The world is a changed place now, as cold war has ended. The global communication has developed so much so that prosecution of a war criminal, though very hard, but still is possible. In the case of Pakistani war criminals and collaborators, many of them are already being naturally extinct, prosecuting them either at national or foreign forums, are possible.

If General Pinochet could be detained, then there is no reason why General Niazi, though 83 now, cannot be questioned about Bangladesh, during his next visits to US or Europe.

Might of the Pen is Least Understood

By Martin Saldamando

The press that lacks maturity, needs training. Simultaneously we need to work on media ethics. Guidelines for journalists should be developed by relevant experts and media professionals, published and then perhaps circulated to the government and non-government organizations. Right to Information is too important to entrust it to the press in Bangladesh. If we are to make our government transparent then we need a legislated Right to Information for the citizens.

Journalists rule that it takes two sources to verify their facts. How many journalists in Bangladesh follow this? We know that newspapers provide news. In Bangladesh, the same news is produced in so many ways. One doesn't know what is the 'real' information. Many people read two or three newspapers and then make their own assessment of the facts. On the other hand, journalists know how difficult it is to obtain information on even mundane matters from official government sources. It is a different matter altogether that such information as is provided, is often misleading. Do to this, news can often be wrong. Some high-profile statements of the Prime Minister recently that the press too should be taken under effective scrutiny in order to ensure transparency and accountability, stem from her offense at a number of reports about her in the newspapers. It may be that the official source of the information was to blame for the offending reports. Sheikh Hasina also said that the journalists and the media should also observe transparency, and they should always operate in an accountable and responsible manner. Perhaps a start could be to recommend to the government that they set up a spokesman to clarify and provide information to citizens, the press and to lawyers simply put, to set up a point of information-access.

Besides a lot of mundane information generated everyday, there is much that is extremely valuable for the public to know, and it is very important to find a way to have access. This issue of professionalism and journalistic ethics was also raised by the editor of this very newspaper at a recent seminar on Right to Information in South Asia, held in Dhaka. In summary, he said, that in Bangladesh the press does not have the public's belief nor has it earned credibility. The press should convince the public that whatever they do with a legislated Right to Information, it is the public's right to know. These cases echo as lessons on which way to go forward. The balance sheet and accountancy of the press is to be a public document, and any citizen, if it proved to be false, that would disqualify the politician from running for office. These changes were made via an ordinance, and when the ordinance lapses the government in Pakistan did not renew this. But that should not make us skeptical, rather take these as lessons on which way to go forward. The balance sheet and accountancy of the press is to be a public document, and any citizen, if it proved to be false, that would disqualify the politician from running for office. These changes were made via an ordinance, and when the ordinance lapses the government in Pakistan did not renew this. But that should not make us skeptical, rather take these as lessons on which way to go forward. The balance sheet and accountancy of the press is to be a public document, and any citizen, if it proved to be false, that would disqualify the politician from running for office. These changes were made via an ordinance, and when the ordinance lapses the government in Pakistan did not renew this. But that should not make us skeptical, rather take these as lessons on which way to go forward. 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