

TRIAL OF WAR CRIMINALS

A debt owed *to* martyrs

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IT is difficult to think of any country where the issue of the trial of war criminals gave birth to so much controversy, especially in the post-Second World War era. Sufferings from the cruel and inhuman consequences of wars made people vow to see the perpetrators punished and repentant for their misdeeds by way of upholding human dignity so crudely trampled underfoot by the mighty. This is an issue that has been deliberated in various fora -- national and international -- for day and night. Anybody not devoid of a human mind has felt and agreed that war criminals should never escape facing legal processes through which they will be punished for the crime they committed not only against particular persons but against the humanity. Yet in Bangladesh it is still a debatable issue. People still show the boldness to oppose the proposition as irrelevant and unnecessary as the war took place as far back as in 1971. Standing in a country, the soil of which is soaked in the blood of 3 million martyrs in addition to many known and unknown who lost their lives over long struggles for freedom and democracy, for economic and cultural liberation, there are some people who still dare to question whether the way people of Bangladesh was killed was actually a genocide. They even dare to make statements to the effect that the war that was fought in 1971 was simply a civil war between the peoples of the east and the west of Pakistan. They recognise nothing as the liberation war of Bangladesh. Therefore 'there is no existence of any war criminals in Bangladesh' and 'the question of the trial of war criminals does not arise'. According to them, those who demand the trial are in fact doing it 'to cause trouble, to sell the country off to the foes'.

However, it no longer remains a secret in whose interest these controversies and debates are kept alive. It is very clear to everyone that the motivation and the political interest here, unfortunately, do not relate only to the individuals or political parties who so actively opposed the liberation of Bangladesh and sided with the Pakistani military junta -- helping them in killing, looting, torture, arson and raping women. The political party which by all means has the right to claim to have provided leadership in the liberation war as well as the party which claim to have come into being to restore democracy under the leadership of a freedom fighter also are parties to this motivation. Let us be clear on this point that this is one of the main reasons why it has not been possible for the nation despite repeated attempts by people's groups to bring the war criminals to justice in thirty-six years. Historically, non-application of principles of justice without prejudice to remedy the victims of criminal acts in general along with active patronage by the governments of Bangladesh to the alleged war criminals against the



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pro-liberation forces allowed them to work to influence the institutional processes in such a way that the question of trial of the war criminals was frustrated at every stage from within both the civil and the military bureaucracy. Not only that the people were afraid to demand the trial fearing retribution from the perpetrators themselves and also the state, hardly any cooperation or protection could be expected from the legal and judicial institutions to be able to move the issue forward. It can never be overstated that there was strong resistance from these institutions to even initiating the process. The degree of confidence with which the alleged perpetrators threw the challenge to everyone -- 'prove it, if you can' in itself carries the message that they feel they have the whole formal process of justice under their control. The use of the expression 'formal process' is deliberate here as it is more than apparent that the demand for trial reflects extensive popular sentiment. The unfortunate part is that people who were personally engaged in committing war crime or at least collaborating with the Pakistani occupation army in 1971 were allowed to gain political power either in their own name or through using others to mould the state mechanisms to their advantage in the post liberation Bangladesh. That by using the changes made in the Constitution from time to time by their political allies, introducing a particular pattern of state culture, instilling fear in the minds of all oppositions -- religious, cultural, social and political -- they have been able to exert control over the processes of employment to all administrative and institutional positions is common knowledge. Unhindered flow of funds for them to run NGOs and dominance in the commercial and business fields, taking over of the education and health services, capture

of university halls through armed intervention by these groups are well documented facts. On top of all these, they are the only ones who enjoyed boundless freedom of speech and expression by covering their politics with religion. They were free to put price on anybody's head they did not agree with, they could threaten anyone with any consequence they thought to be befitting, they assumed the authority to excommunicate anyone from his or her community for the reason they thought was called for, they imposed the system of justice they thought was just to punish and humiliate people, particularly women. They dared to propagate hate politics against other communities without fear of any action by the state whereas no one dared to protest or try to defend themselves. Nor did the state take any action to protect others against them. They have no qualms in declaring anti-woman, communal, divisive or hegemonic policies as their political agenda.

It is very important to see that the strategic infiltration by the war criminals into the socio-economic fabric actually has directed the country's politics to an entirely different end. It has in fact threatened the very existence of the country leading it to the present condition where after thirty-six years of becoming independent with clearly defined visions of equality, peace and justice the country is still not being able to break the vicious circle of poverty, discrimination, abuse of power, corruption and violence against women and other ethnic and religious communities. These are the people or political forces who openly defied and opposed the processes to realize the fundamental principles of Bangladesh to found a democratic, equitable country where no one shall be discriminated against for any specific identity they are born into or chose to bear. On the con-

trary, their majoritarian political tactics based on religion blatantly took resort to terrorist acts to make people bow down to their own design of turning Bangladesh into a religious state. To make this surrender smooth, they also intervened in people's personal lives through means like education systems, health services, employment opportunities and making up of the history of liberation struggles which directly moulded their life styles as well as philosophy with overt or latent support from the state institutions with a motive to have full control over their psyche who otherwise are so pathetically deprived and disenfranchised of the basic needs and rights in their everyday

endeavours for survival. The links the alleged war criminals had with actors like Banglabbhai and of the series of violent bomb attacks over the past years are now becoming clear to everyone. They used their influences with the ruling parties, especially during the period they shared power with the main partner of the alliance, to either suppress the investigation reports or even to direct that to others. This was possible because of the dependence of the two big alliances, which practically comprised the total political force of the country, on them to bring them the majority status either to stay in power or to ascend to power. These groups enjoyed a very comfortable position

to exploit that to dwell above the law with absolute impunity. On the other hand, people raising the issue of their trial were condemned for being 'divisive and obstructing development and economic progress leading to instability' of the country. It is very important for the citizens of the country aspiring to see Bangladesh reach the ideals for which it was born to take a firm stand to decide on the fate of the war criminals. In the course of its journey to democracy, Bangladesh had to take too many about turns already. It should clearly be pointed out that it was not because of the few corrupt, unscrupulous politicians in power only. There are other factors to take into account too. Let us

also look at ourselves critically. I believe we have reached this point of entering into a labyrinth also because we made repeated mistakes to identify the leaders to run the country who in the true sense would represent the ideals of Bangladesh. What we did so far was to send 'our' or 'my' representatives to power who would carry the narrow interest of 'ours' or 'mine' only, which seldom matched with the interest of the general people or the country itself. We gave up the very vision we depicted for ourselves over the long period of three decades to earn an independent country for ourselves. We so easily forgot the pain we took to reach 16th of December -- the losses, the humiliation, the deaths we suffered. We definitely did not show enough prudence in choosing our leaders judging them by the standards we set for ourselves, for the country. We compromised too much on processes to save whatever small stake we had in the power sharing.

Those in power also were never shy to put the blame on others saying it was always the responsibility of their predecessors. Let us take the courage to face the truth and identify the main obstacles to a human life in a democratic society. Let us start the process of seeing the criminals brought to justice and the rights of the ordinary citizens protected. This, as I see it, is not the moral obligation of any individual, it is the obligation of all of us as a nation, as citizens of an independent country where it is more than just a critical issue, as citizen of the world which we so proudly call 'civilised'.

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