War crimes trial an internal matter

International crimes are committed against humanity and civilisation at large, and no single state or government, not even the international community, has any right to forgive and decline to prosecute persons accused of the commission of such heinous crimes.

MUNIR UZ ZAMAN/ DRIK NEWS

MIZANUR RAHMAN

IT is hard to believe that a newly appointed diplomat can have a start as bad as this. The Pakistan high commissioner to Bangladesh the other day claimed that the question of the trial of war criminals had been resolved by the Simla agreement, and, therefore, Bangladesh should not break that international agreement and try the war criminals.

The statement is problematic, not because it is ill-designed but because the diplomat -- the representative of the Islamic Republic of Pakistan -- was mistaken. Let me elaborate on the point.

In order to understand the gravity of the issue of the trial of war criminals, we need to have a preliminary idea about international crimes -- i.e. crimes under international law. While international law typically imposes human rights obligations upon states, it also imposes some responsibilities directly upon individuals, making them liable to criminal punishment.

This principle of "individual responsibility" was recognised and enforced in the trial of major war criminals at Nuremburg and other post-world war prosecutions, more recently in Rwanda, the former Yugoslavia, Cambodia, Lebanon, etc.

Principle six of the charter of the Nuremburg tribunal mentioned crimes against peace, war crimes, and crimes against humanity as international crimes and, therefore, punishable under international law, whether by an international tribunal or by any state court exercising universal jurisdiction.

The Nuremburg judgment very aptly provided the rationale of such trial of war criminals: "That international law imposes duties and liabilities upon individuals as well as upon States, has long been recognised ...Crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced."

Thus, Nuremburg set the standard and, today, after more than six decades of progressive development, it is settled that prosecuting international crimes is a state responsibility and any state may prosecute such crimes exercising universal jurisdiction.

International crimes are committed against humanity and civilisation at large, and no single state or government, not even the international community, has any right to forgive and decline to prosecute persons accused of the commission of such heinous crimes.

Against this background, let us now consider the comment made by the Pakistan high commissioner. The Simla Pact was signed by India and Pakistan on July 2, 1972, primarily to put an end to the confrontation between the two countries to establish a durable peace in the sub-continent.

Bangladesh could not but welcome the Simla agreement. Prime Minister Sheikh Mujib, an ardent believer in peace and peaceful resolution of international conflicts, naturally supported the good intentions of the agreement.

All the more so, he had by then underlined the fundamentals of Bangladesh's foreign policy -- "friendship to all but malice to none." Bangladesh was mostly interested in the quick repatriation of our compatriots stranded in Pakistan and safer repatriation of "Pakistani civilians" willing to leave Bangladesh.

There were a series of talks between India and Bangladesh on one side and India and Pakistan on the other. These talks resulted in an agreement at Delhi on August 28, 1973, between India and Pakistan with the concurrence of Bangladesh, which provided a solution for the outstanding humanitarian problems by commencing three-way repatriation.

In February 1974, Pakistan recognised Bangladesh, thus facilitating the participation of Bangladesh in the tripartite meeting envisaged in the Delhi agreement, on the basis of sovereign equality.

Accordingly, Dr. Kamal Hossain, foreign minister of Bangladesh, Mr. Swaran Singh, minister of external affairs, government of India, and Mr. Aziz Ahmed, minister of state for defense and foreign affairs of the government of Pakistan, met in New Delhi from April 5 to April 9, 1974 and discussed the various issues mentioned in the Delhi agreement, in particular the question of the 195 prisoners of war.

Dr. Kamal Hossain, the foreign minister of Bangladesh, stated that the excesses and manifold crimes committed by those prisoners of war constituted, according to the UNGA resolutions and international law, war crimes, crimes against humanity and genocide, and that there was universal consensus that persons charged with such crimes -- for instance, the 195 Pakistani prisoners of war -- should be held accountable and subject to the due process of law.

The Pakistan state minister for foreign affairs said his government "condemned and deeply regretted any crimes that may have been committed." Subsequently, during the Pakistani leader Bhutto's visit to Dhaka (and owing to mounting international pressure, according to some observers), the 195 POWs were repatriated to Pakistan.

But does that mean they did not commit war crimes? Does repatriation mean condoning of murder, rape, arson and other atrocities? On the contrary, customary international law places responsibilities on the state to prosecute war criminals, at least according to its domestic laws. It was imperative on Pakistan to bring back those POWs, and they should have been tried in Pakistan on their return..

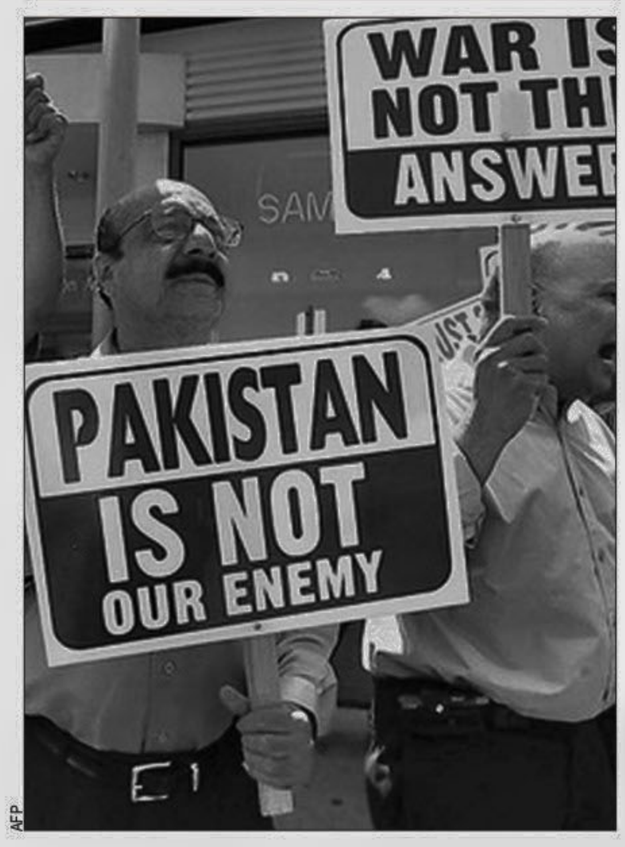
Thus, does the Simla Pact and agreements concluded between the three nations forgive war criminals? The answer is a clear no. Therefore, the Pakistan high commissioner was mistaken in what he said to the press and media.

The much-awaited war crimes trial is completely an internal matter of the country, and it was therefore unwise and imprudent for the Pakistan high commissioner to make any comment on the matter.

Dr. Mizanur Rahman is Professor of International Law, Dhaka University.

A Victory for Obama

The Afghan Taliban, the Haqqani group, Gulbuddin Hekmatyar, Lashkar-e-Taiba, and many smaller groups all operate with impunity within Pakistan. But the Pakistani military is doing more than it has before, and that counts as success in the world of foreign policy.



AFP

FAREED ZAKARIA

PRESIDENT Obama gets much credit for changing America's image in the world -- he was probably awarded the Nobel Prize for doing so. But if you asked even devoted fans to cite a specific foreign-policy achievement, they would probably hesitate. "It's too soon for that," they would say. But in fact, there is a place where Barack Obama's foreign policy is working, and one that is crucial to US national security -- Pakistan.

There has been a spate of good news coming out of that complicated country, which has long promised to take action against Islamic militants but rarely done so. The reason: Pakistan has used many of these same militants to destabilise its traditional foe, India, and to gain influence in Afghanistan.

Over the past few months, the Pakistani military has engaged in serious and successful operations in the militant havens of Swat, Malakand, South Waziristan, and Bajaur. Some of these areas are badlands where no Pakistani government has been able to establish its writ, so the achievement is all the more important.

The Pakistanis have also ramped up their intelligence sharing with US. This latter process led to the arrest a month ago of Mullah Abdul Ghani Baradar, the deputy leader of the Afghan Taliban, among other Taliban figures.

Some caveats: most of the Taliban who have been captured are small fish, and the Pakistani military has a history of "catching and releasing" terrorists so that they can impress Americans but still maintain their ties with the militants. But there does seem to be a shift in Pakistani behaviour. Why it's taken place and how it might continue is a case study in the nature and limits of foreign-policy successes.

First, the Obama administration de-fined the problem correctly. Senior ad-ministration officials stopped referring to America's efforts in Afghanistan and instead spoke constantly of "AfPak," to emphasise the notion that success in Afghanistan depended on actions taken in Pakistan. This dismayed the Pakistanis but they got the message. They were on notice to show they were part of the solution, not the problem.

Second, the administration used both sticks and carrots. For his first state dinner, Obama pointedly invited Indian Prime Minister Manmohan Singh -- clearly not Pakistan's first choice.

Obama made clear that America would continue to pursue the special relationship forged with India under the Bush administration, including a far-reaching deal on nuclear cooperation. But at the same time, the White House insisted it wanted a deep, long-term, and positive relationship with Pakistan. Sens. John Kerry and Dick Lugar put together the largest nonmilitary package of US assistance for the country ever. Aid to the Pakistani military is also growing rapidly.

Third, it put in time and effort. The administration has adopted what Central Command's Gen. David Petraeus calls a "whole of government" approach to Pakistan. All elements of US power and diplomacy have been deployed. Pakistan has received more than 25 visits by senior administration officials in the past year, all pushing the Pakistani military to deliver on commitments to fight the militants.

Finally, as always, luck and timing have played a key role. The militants in Pakistan, like those associated with al Qaeda almost everywhere, went too far, brutally killing civilians, shutting down girls' schools, and creating an atmosphere of medievalism. Pakistan's public, which had tended to downplay the problem of terrorism, now saw it as "Pakistan's war." The Army, reading the street, felt it had to show results.

These results are still tentative. Pakistan's military retains its obsession with India -- how else to justify a vast budget in a small, poor nation? It has still not acted seriously against any of the major militant groups active against Afghanistan, India, or US.

The Afghan Taliban, the Haqqani group, Gulbuddin Hekmatyar, Lashkar-e-Taiba, and many smaller groups all operate with impunity within Pakistan. But the Pakistani military is doing more than it has before, and that counts as success in the world of foreign policy.

Such success will endure only if the Obama administration keeps at it. There are some who believe that Pakistan has changed its basic strategy and now understands that it should cut its ties to these groups altogether.

Strangely this naive view is held by US military, whose top brass have spent so many hours with their counterparts in Islamabad that they've gone native. It's up to Obama and his team to remind the generals that pressing Pakistan is a lot like running on a treadmill. If you stop, you move backward, and, most likely, you fall down.

Fareed Zakaria is editor of Newsweek International and the author of The Post-American World and The Future of Freedom: Illiberal Democracy at Home and Abroad .

Prof. Sobhan at 75

Whether at a macro- or micro-level of the economy, the driving principle for Rehman Sobhan, it appeared to me, was to create a space for the poor, empower them, and bring about distributive justice to ordinary people.

SYED REZAUL KARIM

WE have read with great interest the interview of Prof. Rehman Sobhan published in *The Daily Star* in two instalments. Prof. Rehman Sobhan belonged to the elite class of society in his upbringing, education, and social milieu. Yet, after obtaining his degree from Cambridge University, he chose to become an economics teacher at Dhaka University, instead of choosing elite services.

Those of us who were his students in the mid-sixties still remember his simple dress, Cambridge accent, immaculate English, and his abiding commitment to the downtrodden. Those were the days when Prof. Rehman Sobhan, with Prof. Nurul Islam and Prof. Anisur Rahman, developed and propagated the two-economy theory based on the inequities of lopsided economic development between East and West Pakistan.

"Economic disparity" become a by-word of East Pakistani intellectuals and bureaucrats then, and, I venture to say, laid the rational and intellectual foundation of the Six-Points propagated by Bangabandhu Sheikh Mujibur Rahman later.

No other movement intellectually aroused the Bengali middle class against the Pakistani elite to such an emotional height, as did economic disparity, propounded by Prof. Sobhan and his colleagues.

Prof. Sobhan taught for decades at Dhaka University and a significant corps of today's civil servants, diplomats, economists, administrators, bankers, social scientists, teachers, etc. were his direct students. It was a great experience to listen to him delivering his lectures, whether on railroad development in nineteenth century US, the slaves' transformation into wage earners after the US civil war, Japan's Meiji Restoration, the kulaks' extermination in the Russian Revolution's, or income distribution.

Those of us who came from the backwaters of Bangladesh -- the villages -- the Dhaka University department of economics offered a window of opportunity to listen to and learn from the country's brightest economists, and Prof. Sobhan figured prominently.

Like many distinguished Bangladeshis, Prof. Sobhan could have chosen to settle down in any developed country in the West, and spend his time in relative peace and prosperity. Instead, he preferred to stay and work in Bangladesh, a country with myriad problems of poverty. He has lived through the vicissitudes of Bangladesh society and has suffered the pangs and pathos with millions of fellow citizens.

Prof. Sobhan dedicated himself to address Bangladesh's economy and polity problems -- problems and issues that needed to be addressed to make a safe passage for Bangladesh to emerge into a prosperous, democratic and equitable society.

For example, his commitment to the poor and the underprivileged takes him every year to a remote village in Delduar, Tangail, to support a high school with 2,500 students, established by an area philanthropist.

Whether at a macro- or micro-level of the economy, the driving principle for Rehman Sobhan, it appeared to me, was to create a space for the poor, empower them, and bring about distributive justice to ordinary people.

Bangladesh has a long way to go to fulfil his vision for the realisation of which he dedicated his energy and talent. For the moment, let me salute my teacher and wish him a very healthy and happy life.

Syed Rezaul Karim is an ex-MD of Hoechst Bangladesh Ltd.

Turning a blind eye

The Indian news media has reported several outbreaks recently in the neighbouring state of West Bengal. These news reports make it obvious that India is not free of bird flu, and the government is mistaken in allowing imports of Indian poultry products.

STAR

ZEESHAN HASAN

TO the casual observer, it might seem that bird flu is no longer news. It rarely appears in the papers any more, and one could be forgiven for thinking that the massive damage it did to the poultry industry a few years ago was a thing of the past. But this is not true. The outbreak of bird flu at a bio-secure breeder farm owned by Kazi Farms in North Bengal, a region that had been considered safe, shows that the threat is not over. Rather, it seems to be increasing, invading locations and well-managed farms that were previously not affected.

What could be the reason for the sudden outbreak? Kazi Farms has always maintained international standards of bio-security in its locations. All poultry sheds are closed to the outside and environmentally controlled, limiting exposure to viruses from wild birds. All personnel live on the farm, and have to disinfect, shower and change uniforms and footwear in the morning before they enter the chicken sheds. People and vehicles entering the farm have to disinfect and wash their footwear and wheels. These standardised bio-security practices have been found internationally successful in preventing bird flu. So why an outbreak now, when the situation seems under control and levels of the bird flu virus should be low across the country?

A possible explanation for the outbreak is the recent government decision to allow import of poultry chicks and eggs from India. The Indian news media has reported several outbreaks recently in the neighbouring state of West Bengal. These news reports make it obvious that India is not free of bird flu, and the government is mistaken in allowing imports of Indian poultry products.

If Indian products carrying bird flu viruses are being imported, this will spread the virus to the markets where they are sold. The widespread dispersion of the virus would then make it easier for any farm in Bangladesh to be infected through a single poorly washed wheel, shoe or foot entering a farm. Import of poultry products and spreading the virus thus increases bird flu risks for all poultry farms in Bangladesh.

The government should immediately wake up to the risks of importing Indian poultry products and put a stop to it. Stopping imports will cause a shortage and high chick prices temporarily; the solution is to allow local poultry breeders to vaccinate their flocks, as is done routinely in other Asian countries such as Indonesia, where the density of small-scale farming makes it difficult to ever completely stamp out bird flu. By vaccinating, breeders can lower their risk of outbreaks and replenish their parent flocks in a few months, raising the supply and lowering the price. This will make Bangladesh self-sufficient in day-old chick production again, as it was for most of the last decade until bird flu hit. In the meanwhile, allowing imports from only genuinely bird flu-free countries, as per standard international practice, should make up the shortage of poultry products.

Zeeshan Hasan is a director of Kazi Farms.