

## EXPERTS ON INTERNATIONAL CRIMES (TRIBUNALS) AMENDMENT ACT

# It's better than war crimes laws used globally

EMRAN HOSSAIN

The International Crimes (Tribunals) Amendment Act 2009 is better than any other relevant international law and more committed to human rights than those ensured during any war crimes trial across the globe.

Prominent jurists, intellectuals, journalists and human rights activists, while talking to The Daily Star, said they examined the act in relation to relevant international laws and came down heavily on a two-member delegation from the United Kingdom.

The UK delegates said the act falls short of international standard on Wednesday.

Justice Golam Rabbani said, "I have read the speech given by Steven Kay QC and it appears to me that he is not a lawyer up to the mark."

"And probably he was brought here to say against the trial by people who do not want the trial."

Steven, in a seminar titled "Human rights: Perspective Bangladesh", made several objections to the ongoing war crimes trial and the act under which war criminals of the country's War of Liberation are being tried.

Steven raised a point on jurisdiction of the War Crimes Tribunal over crimes commit-

ted before commencement of the act, which he said challenged universal principle.

"With regards to his objection to the retrospective effect to the law, it is sufficient to tell him to read the charter of Nuremberg Trial," said Golam Rabbani.

"The crime mentioned in the charter was retrospective in effect and the crime which was mentioned therein are the same as in the act of 1973, in language and description of the crime," said Golam Rabbani.

He also mentioned that before enactment of the 1973 act in Bangladesh Parliament, a resolution was adopted in the United Nations to the effect, "Bangladesh has every right to try the criminals who committed war crimes in 1971."

The way the 1973 Act is better in standard than any other law is that all the tribunals or trials, namely Nuremberg or Tokyo or Manila, were independent in nature and decision of those tribunals were final whereas the 1973 act enters the provision for appeal.

"There is a provision in the act of 1973, making the judgment and the order of the tribunal appealable before the appellate division of Supreme Court of Bangladesh.

"There was no such provision of appeal before and this provision is sufficient to guarantee the fair and proper trial in the tribunal," said Golam Rabbani.

Legal experts said the act was formulated, taking into account all the relevant conventions and laws available at the time of formulation.

This especially includes the laws used in Nuremberg, Tokyo and Manila Trial, the trials held on crimes during World War II, Geneva Convention and relevant UN conventions.

Even some of the experts involved in formulation of law for Nuremberg trial, held in 1945, was involved in formulation of the act in 1973.

The act, however, underwent further amendment and included the provision of appeal.

"If the Supreme Court considers the tribunal's decision wrong, the decision can be cancelled and none can change the order of the SC," said eminent Journalist Shahriar Kabir.

Steven also expressed concern over the lack of rights to challenge and inability to request the tribunal to be accountable for its conduct in the act.

During Nuremberg trial and other trials on war crimes

of World War-II, lawyers for accused raised question over appointment of judge and prosecution by the plaintiff

would call it a war between India and Pakistan, he explained.

"Had we lost the war in

### Experts say

- Steven Kay QC not a lawyer up to the mark
- Act formulated considering all available laws and conventions regarding war crimes trial
- Provision of appeal by convicts present for fair trial
- Queries on the Act already answered
- Questions being raised now to confuse people, international community

and expressed "no-confidence" over the issue. But none of the trial or tribunal accepted it.

"In no trial of war criminals in the history of the world were the war criminals given the right to bring "no-confidence" on the judge appointed for the trial," said Shahriar.

Shahriar also said the definition of war crimes might vary from country to country. Pakistan says there was no war of independence in 1971, and it was a civil war or many

1971, by now Pakistan and Jamaat-e-Islami would have hanged freedom fighters for crimes in war. It is always the justice of a victor. This is the way the world worked and is working till now," he added.

Experts also mentioned that the constitution of Bangladesh is internationally regarded as one of the best constitutions in the world, and Bangladesh has internationally reputed jurists who are often invited by foreign countries, namely Cambodia and Rwanda, to develop their

legal system.

Steven also expressed concern over qualifications of the people appointed for the trial, both in prosecution and judgement, questioning if they are technically trained.

The experts also mentioned that in numerous seminars, conferences and discussions at institutions including International Bar Association and experts in Europe, America, United Kingdom and even in Pakistan expressed that the act is sufficient to ensure a fair trial.

Eminent intellectual Prof Muntasir Mamoon of Dhaka University said, "What do you mean by international standard?"

"Is standard what only western countries certify? Don't you think that standard is ensured when a law is formulated while driven by necessity and reality of a

country?"

"Bringing some foreigner in a seminar does not ensure international standard. Concerned international institutions are already satisfied with the act," he added.

"We will do what we consider is good for our country. We felt the necessity and significance of independence and we waged a war in 1971, ignoring suggestions from powerful international countries that independence would not be good for us."

"But we won independence. And now we think our law is enough to hold a free, fair and transparent trial," Prof Muntasir added.

"Has there been any war crimes trial which satisfies all these criteria?" said eminent lawyer Shahdeen Malik.

He said that following establishment of the

International Criminal Court under Rome Statute in 2002, any crime committed after that and their trial may satisfy these criteria.

But we are talking about events and laws around 30 years before Rome Statute, he added.

"Those who widely assert that the act of 1973 does not meet international standard are actually not worth responding to. All these questions have already been raised and responded to in a number of legal writings," he added.

No trial, either in Nuremberg or Tokyo or Manila or Rwanda and Yugoslavia, is beyond all these questions and criticism.

"All these efforts raising the same questions are to confuse people and the international community as well," said Shahriar.

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PHOTO: STAR

IWC of Dhaka North organises a programme at the Islamia Eye Hospital in the city recently, providing milk to children on treatment. Zahida Ispahani IEH, Nishat Huda, Atia Parveen, Nurjahan Sarwar, Lovely Bayzied, Mohsena Reza, Salma Haque, Tahera Muzaffar, Farhat Rahim, Akhter Jahan, Faizunnahar Huq, Zerina Akhter and Bejoy R Saha, among others, were present.



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### 3-day debate contest ends today

DU CORRESPONDENT

A three-day debate competition for the college and school students of Rajuk College at Uttara in the city ends today.

The debate festival was organised jointly by Prothom Alo and The Daily Star with the slogan "Jukti Hok Muktir Sopan" (let logic be the stairs of freedom).

The quarterfinal, semi-final and final of the debate as well as semi-final and final of Bangla debate will be held today. The prize giving ceremony will be held at 4:00pm.

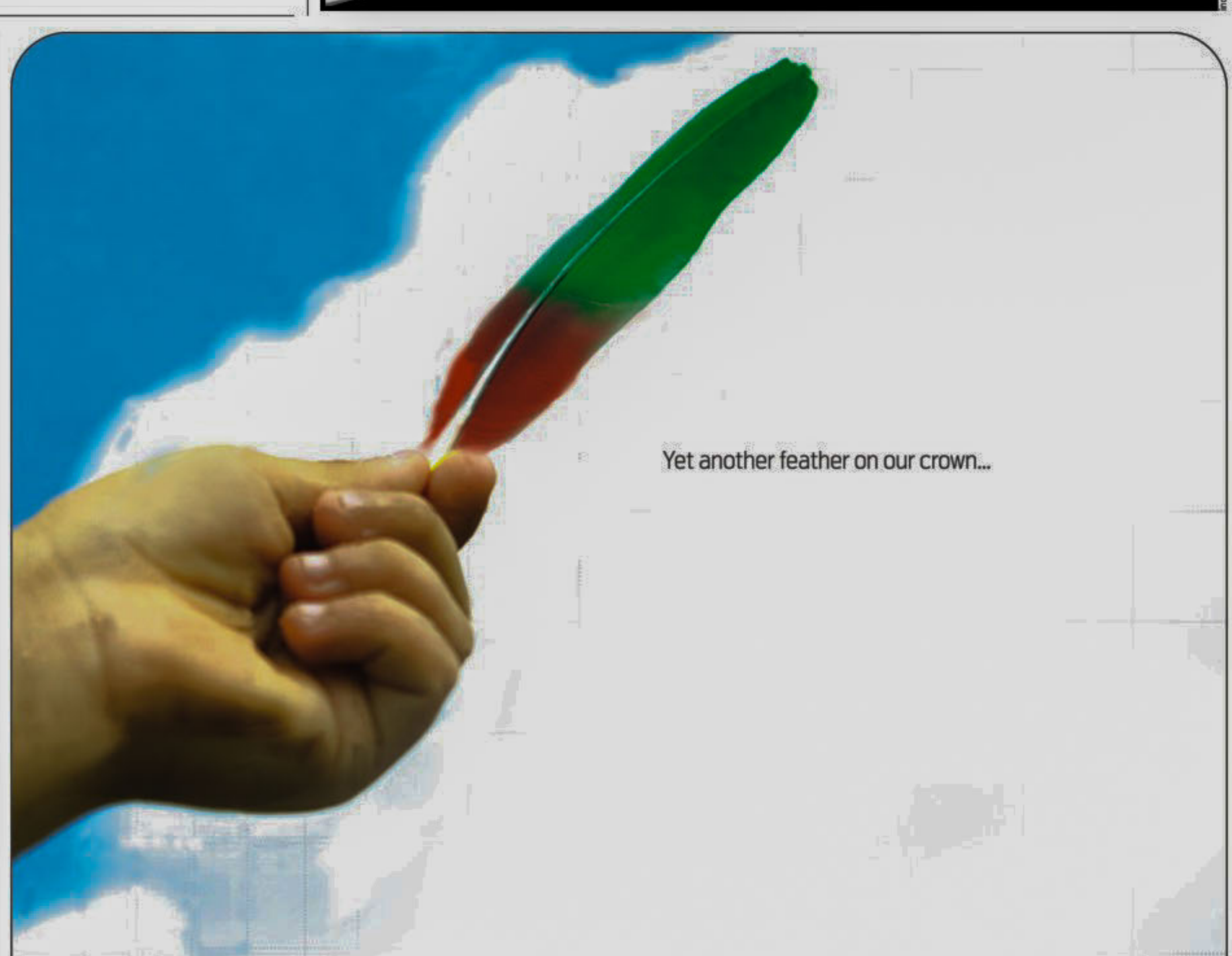
### 'Wash hands to prevent diseases'

METRO DESK

Speakers urged all to wash hands with soap to prevent diseases in the country.

They made the call at a programme organised by ICDDR,B at its Sasakawa Auditorium in the city on Thursday on the occasion of the Global Handwashing Day, said a press release.

Secretary for Health and Family Welfare M Humayun Kabir, Executive Director of ICDDR,B Dr Alejandro Cravioto, Line Director of Primary Health and Family Welfare Dr ABM Jahangir Alam and Chairman and Managing Director of Unilever Bangladesh Rakesh Mohan were among others present.

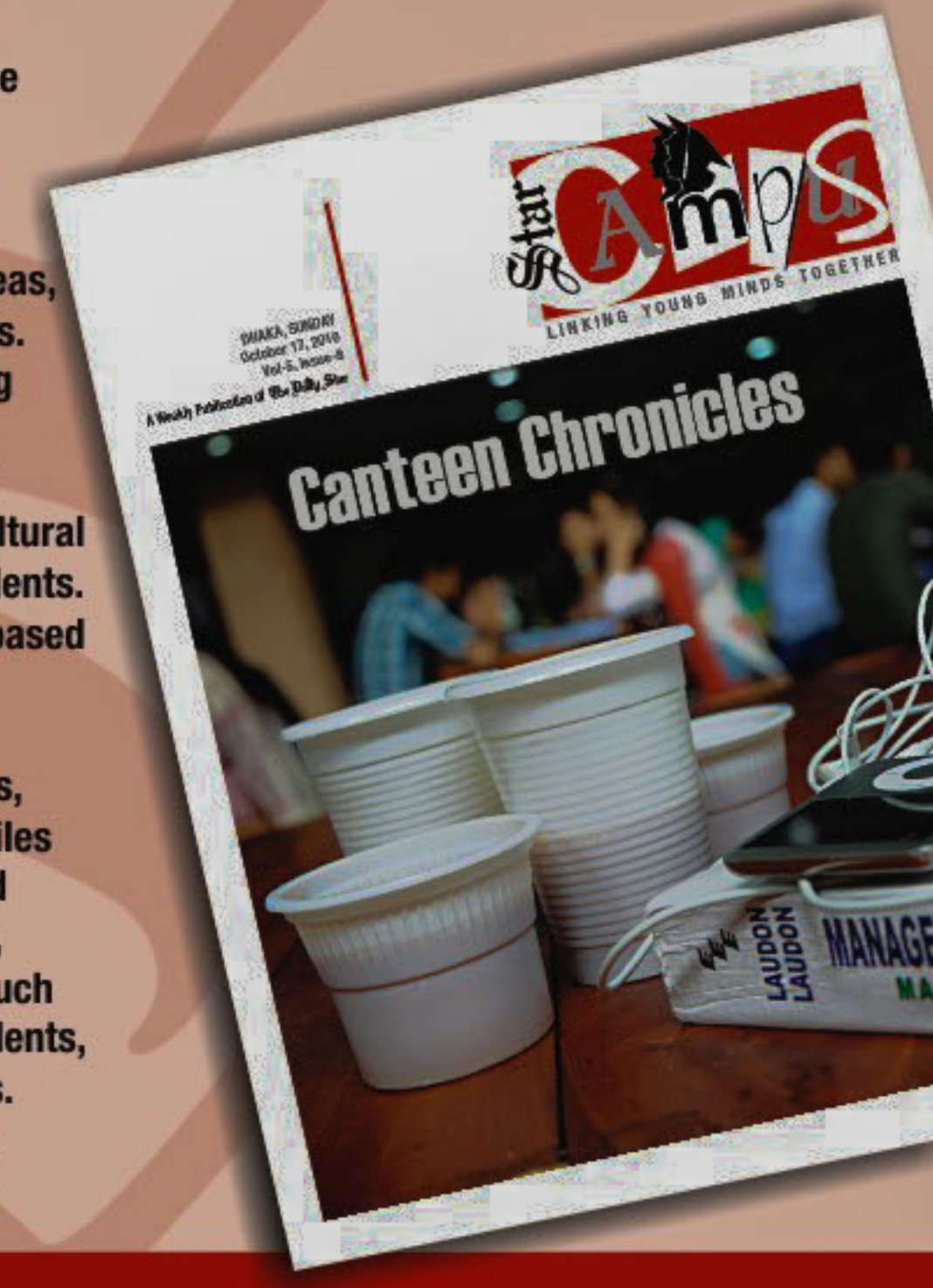


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### Grameenphone donates 200 computers to DGHS

METRO DESK

Directorate general of health services under the health and family welfare ministry received over 200 computers from Grameenphone Limited as donation at a ceremony held at GPHOUSE in the city on Thursday.

The computers will be used to digitise the health management information system and providing e-health service to the people, says a press release.

Prof Kh Md Shefyetullah, director for medical education, and Prof Abul Kalam Azad, director of management information system of the directorate, on behalf of Prof Shah Monir Hossain, director general of health services, received the computers from Oddvar Hesjedal, chief executive officer of Grameenphone.

### Congratulations to the Government of Bangladesh for winning our country the prestigious membership of ITU Executive Council

This is a great recognition for the Digital Bangladesh vision of the government. In particular, the commendable efforts of the Ministry of Posts and Telecommunications, Bangladesh Telecommunication Regulatory Commission (BTRC), and the Ministry of Foreign Affairs behind achieving this victory deserve a very special mention.

