

# War crimes trial and transparency of justice

ZIAUDDIN CHOUDHURY

It has been said that war crimes trials arise from high expectations that cannot possibly be met. Perhaps the Bangladesh war crimes trials have also raised such expectations.... We do know that in a self-respecting nation it is imperative that criminals who aided and abetted atrocities and crimes against humanity cannot, are not, left unpunished. We do know that such trials can also provide a deterrent effect for the future.

The words above are from an article that I wrote early 2012 for the Forum Magazine of the Daily Star in the wake of the restarted War Crimes Trial after an agonizing delay of four decades. When I penned these words, like many, I had some reservations about the completion of the trials, at least the most visible ones, observing due process and giving verdicts that would seem fair and adequate.

Shredding all skepticism the International War Crimes Courts tried successfully and sentenced at least seven people charged with war crimes, two in absentia, within four years of their formation. The reception of the sentencing, however, has not been uniform across the board, particularly in the section that showed more emotional involvement in the process. It is obvious that any sentencing, hanging or prison, will not please the defendants and their followers. But what is striking is that despite the courts observance of due process, a considerable section of people, the majority of whom appear to represent the younger population was deeply dissatisfied with the results. The first resentment of this kind following the Kader Mollah verdict of life imprisonment led to waves of protests lasting weeks and bringing the capital city to a virtual stop. The resentment seemed so unifying and all pervasive



some even started to compare the rallies with Arab Spring Awakening in the Middle East. The impact of this massive protest was so great that the Government was forced to bring about an amendment to the War Crimes Trial laws allowing appeal against the verdicts to Superior Courts—a law that later allowed the Superior Court overturn the Trial Court verdict and sentence Kader Mollah to death.

Fortunately the latter sentences were all for capital punishment except that of Gholam Azam. However, the life term sentence for Gholam Azam on grounds of ill health and old age did not sit well among the section that wanted to see maximum punishment for all those accused of war crimes.

The latest salvo on war crimes verdict that came from the Supreme Court commuting death sentence for Delawar Hossain Syedi again has brought to surface the issue of justice, fairness, and transparency of the war

crimes trial. The focus again is on what is just punishment, and if in awarding this punishment justice has been served.

In any trial of war crimes the main customers like any trials are the victims. Victims want acknowledgement that a crime against them or their loved ones was committed and the persons responsible for the crime have been held accountable and brought to justice. Victims want some official recognition of what happened, and who did it. For the victims this is part of a healing process. In our war crimes trial we often hear that the victims are not just individuals, but whole nation itself. One may ask then, who are representing this nation in these trials? Is it the government, the prosecuting agency, or the rallies of people who are chanting slogans in the street? Will judgment be based on dictation from street or due process of law that is transparent?

One can appreciate the sentiments behind calls for just and adequate punishment for

those who sided with our enemies and ran mayhem in the country by killing, looting, and rape. These are unspeakable offences that deserve punishment. But our law also asks us to observe due process in prosecuting and punishing the criminals associated with these heinous acts. Punishment after trial is not revenge; it is a legal course to demonstrate to all that crimes do not pay.

Trials for war are most successful when they have been pursued in stable political environments and where the courts have means and wherewithal to try these cases with unfettered authority. The trials are most effective with high functioning institutions capable of guaranteeing compliance with the rule of law. Given the nature of politics in our country and changes in government we often see that the institutions are not given the opportunity or freedom to operate in the best interest of the country. This becomes more difficult when politics intervenes and stands in the way of their operation.

The major issue facing us today is not whether a trial led to hanging or imprisonment. The main issue is whether the trial observed due process of law, and whether the ends of justice were met. Going forward we need to ensure that the quality of investigation and prosecution is not sacrificed. We need to demonstrate both to those who are tried, and to the world at large, that the crimes these people committed were proved beyond shadow of a doubt, and the punishment they receive will prevail. That way we will not need to worry that a change in government will mean a change in our national stand against the people who had defiled our people's lives, dignity and honor in the name of war. Our quality of justice should neither be influenced by politics nor slogans from streets.

The writer is a political analyst and commentator.

## Ecological backlash A blow for a blow

QUAMRUL HAIDER

THE system of Earth values many of us embrace is a rather narrow view of humans in the environment and an even narrower view of the purpose of nature. The main tenets of this view are: (1) The Earth has an unlimited supply of resources and it's all for us; (2) we are apart from nature and immune to natural laws; (3) and our success derives from the control of nature.

Believing in the above tenets and consequently the need to reign supreme, we position ourselves outside the realm of nature. We believe that we can do whatever we please without harming the nature. It is now clear that our acts have been very costly. Most of the environmental problems we face today stem from our "phenomenal" success at dominating nature.

The Earth's refusal to accept our domination without exacting a hefty price is called ecological backlash. It is nature's version of a blow for a blow.

A good example of ecological backlash is the Aswan Dam whose effects extended far beyond the dam site and its lake. The dam was built in the 1960s on the Nile River in Egypt to provide electricity for the rapidly growing city of Cairo and irrigation water for the lower Nile basin.

Traditionally, the Nile, flowing from the headwaters in Ethiopia has flooded its banks every year. The flood replenished the nutrients removed from the farmland by the crops with nutrient-rich silt derived from the basaltic lavas of Ethiopia. As the flood water flowed into the Mediterranean Sea, the silt nourished a variety of phytoplankton, such as algae, which were food for the thriving fish population.

Not long after the dam was completed and the reservoir for the dam, Lake Nasser, was filled up, problems began to appear. First, periodic flooding that fertilized the farmland along the banks of Nile ceased, forcing the farmers to import fertilizer at an exorbitant cost. Next, the sardine fishery in the eastern Mediterranean collapsed due to the loss of nutrient-rich silt.

The creation of Lake Nasser has had another far reaching effect. The lake became the breeding site of the snail which carries a parasitic worm that causes schistosomiasis, a potentially fatal disease that damages internal organs. Incidences of schistosomiasis increased abnormally after the land surrounding the lake was brought under cultivation.

The threat of flood from Lake Nasser forced two priceless archeological sites to be moved to higher grounds. One of them is the Temple of Abu Simbel, built over 3000 years ago by Ramses II. The other one was the temple at Philae, dedicated to the goddess Isis. The relocation cost of both the temples was astronomical.

Aswan Dam should make the energy Czars of Bangladesh cognizant about the ecological backlash that will result once the harebrained coal-fired power plant at Rampal goes into operation. If it doesn't, then they should look at the devastating effects three thermo-electric power plants had on the Yerkis-Denizova forests in Turkey.

The proponents of the Rampal plant believe that the environment, including the Sunderbans, is capable of absorbing most of the pollutants that will be vented into the surroundings by the combustion of coal. They are, however, turning a blind eye to the fact that nature will eventually hit back because after all there is so much abuse it can take. In the long run, the ecological backlashes due to the ill-conceived power plant will wreak havoc on the Sunderbans, its inhabitants and the local environment.

Thus, by building the power plant in direct contravention of the covenants of the global environmental treaty, The Ramsar Convention, the clarion call by the government "Save the tigers and save the nature" sounds rather hollow.

American naturalist Henry David Thoreau noted that if we want to live in a fine house, we need a habitable planet to build it. Earth is the only planet in the solar system that is habitable. But it's in peril, in dire straits. We are beating it to death. "We are at once the problem and the only possible solution to the problem." Hence, to keep our planet habitable, we have to come to terms with this ambiguity.

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## Revisiting micro-credit

DR ATM JAHIRUDDIN, PROF. M. ADIL KHAN,  
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ANY, including most donors, have recognized the important role that microcredit plays in poverty alleviation. In 2006, Prof. Muhammad Yunus, the champion of the microcredit concept, and the Grameen Bank, the pioneering microcredit institution, were jointly awarded the Nobel Peace Prize "for their efforts ... to create economic and social development from below". According to the Nobel Committee, "Yunus and Grameen Bank have shown that even the poorest of the poor can work to bring about their own development".

Yet others, and among these some from Bangladesh, the birthplace of the concept, have derided microcredit as "a debt trap", "usury" and "blood sucking".

It is against the backdrop of these contradictory claims that the principal author of this article, Dr. Jahiruddin of Khulna University undertook his doctoral research on microcredit, exploring - does microcredit whose main objective is to alleviate poverty, actually target the poor; does it alleviate poverty and empower its main beneficiaries, women (approximately 95% of the borrowers); and, in line with the claims of its critics, instead of alleviating poverty, does microcredit exacerbate it?

The research took a little more than three years and included a systematic random sample of 640 borrowers of Grameen Bank and Bangladesh Rural Advancement Committee (BRAC), Bangladesh's two leading microcredit institutions.

Our findings are that 91% of the borrowers targeted by these two institutions are poor, of which 46.0% are 'absolute poor' (below the absolute poverty line); 18.5% 'moderate poor' (above the 'absolute' but below the poverty line set by the BBS-Bangladesh Bureau of Statistics); and about 27% are 'less poor' (those that lived on incomes just above the poverty line but remained vulnerable to poverty). We also found that 9.0% of the borrowers were from

households with 'high' incomes (more than double the official poverty line set by BBS), those that should not have had any entitlement to microcredit.

In terms of microcredit's impact on poverty, we found that most borrowers from all income groups gained economically, but in a varied manner. 'Less poor' borrowers (27% of the total) benefited most; absolute poor (46%) gained only marginally and for some of the extremely poor (8% of all borrowers) conditions actually got worse after borrowing from microcredit. This group failed to recover from the initial losses that they incurred in their businesses and in some cases, their consumption needs were typically of such urgent nature that they often used microcredit money to meet everyday contingencies, and in both these circumstances, this group of borrowers fell deeper into debt. However, in spite of these setbacks, even the poorest of the poor reported that thanks to its advocacy interventions, participation in microcredit programmes has helped boosting their self-esteem and in some cases, raised their awareness about legal rights and motivated them to educate children and observe basic health and hygiene norms etc. For many, microcredit has been a "life changing" facility.

Microcredit's contributions to gender empowerment have been mixed. 'less poor' (those just above 'poverty line') borrowers for whom microcredit induced income constituted a sizable proportion of household income, experienced significant improvements in household decision-making and reduction of domestic violence. Whereas 'absolute' or extremely poor women borrowers whose earnings from microcredit made up almost all of their household income, experienced little or no change in empowerment at the household level and this is mainly in some of the cases, it was their husbands that influenced them to borrow from a source that gave preference to the women. In these cases, husbands had become the de facto owners of the loan money and controlled every aspect of the

loan making their wives simply follow the dominant command/obedience gender norm that pervades patriarchal society of Bangladesh. In case of the 'rich' borrowers, who were also encouraged by their husbands to borrow and contributed only marginally to the total household income, the control of microcredit money was retained by their husbands. These women also experienced little or no change in domestic level empowerment. From the above we concluded that so long as women are unable to retain sufficient control on the microcredit loan money and make substantial contribution to household income from microcredit sources, the power dynamics at the household level that are deeply culturally embedded will remain largely unaltered and that microcredit alone will not be able to much, much wider and greater efforts by the society as whole are required.

We did not, however, limit our study of empowerment to the household level only. We believed that for poor women living in a highly conservative society such as Bangladesh, the issue of empowerment should be viewed more widely, beyond the realm of the household. In this sense we did observe microcredit's ground breaking contributions in connecting women to self-operated income earning opportunities, and to the local markets that helped them not only to gain economically but also politically as well as socially. They became aware of their legal rights and they also gained freedom of movement including gaining noticeable respect and dignity in the community and in the society as a whole. These are monumental albeit less cited accomplishments of microcredit.

We also observed that like most development initiatives microcredit is also not without its challenges. Fortunately, these challenges are more operational rather than conceptual in nature and the good news is that these operational deficits - rapid expansion of the programme through multiple providers, inadequate pre-loan appraisal, insufficient capacity building and weak

monitoring and supervision etc. - are daunting but rectifiable.

Finally, we are aware that in recent times Bangladesh government has introduced or intending to introduce several changes to the Grameen Bank to (in the words of the government) "improve" its governance. As we completed our research prior to these (intended) changes, we were unable to examine neither the details nor the ramifications of these 'reforms' but stress that whatever these are, care must be taken to see that these interventions, that have not been asked for neither by the Bank nor its clients, do not compromise the basic principles namely, sense of ownership, mutual trust and autonomy etc. that make microcredit credit operations successful. These core values that act as glue to all microcredit operations including Grameen Bank's are crucial and that tempering of any of these would not only shake the confidence of the borrowers and harm the institution and its mission but also do a great disservice to the outside world that looks to Bangladesh and especially the Grameen Bank for inspiration and guidance in microcredit and poverty alleviation.

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### CORRECTION

The write-up titled "Listing of Freedom Fighters" published in the editorial page yesterday was by Dr. Mahfuzur Rahman instead of Dr. Mustafizur Rahman as printed. We apologize for the error.

### BEETLE BAILEY

HOLD IT, SARGE! YOU CAN'T BRING FOOD INTO THE OFFICE!

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WHAT FOOD, SIR? I DON'T HAVE ANY FOOD, SEE?

### by Mort Walker

OKAY, LET'S SEE WHAT YOU HAVE IN YOUR POCKETS!

Pop



### HENRY



### by Don Trachte