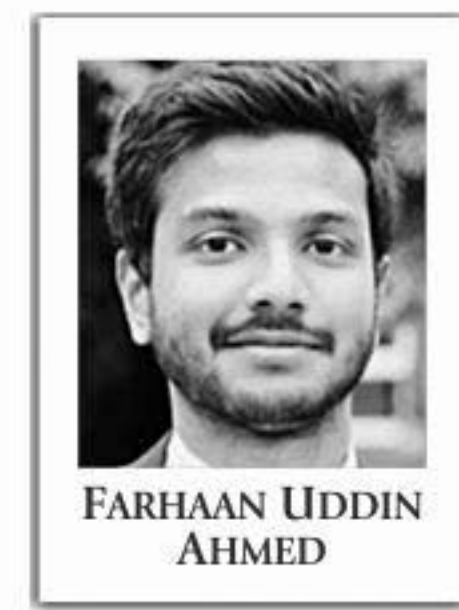


In search of justice

Ethnic cleansing of Rohingyas and the International Criminal Court



FARHAAN UDDIN AHMED

Community leaders' complicity in rape incidents

They are as guilty as the perpetrators

TWO incidents of rape reported by this paper on Wednesday, while tragic and shocking, brought out a stark reality about the culture of rape and how sometimes, the role of the local community leaders in patching up the matter instead of handing the perpetrators to the police sustain the crime rather than prevent it. The incidents occurred in Narayanganj and Noakhali respectively. The first victim is a mere six-year-old while the second, a widow—both already vulnerable in their own ways. But instead of helping them get justice, powerful members of their communities conspired to protect the culprits by subjecting the victims to threats, bribery, and out-of-court settlement. Such a role of the community leaders deal a further blow to victims who have already endured the worst of insults imaginable for a human being, and emboldens potential criminals, perpetuating the phenomenon. It also shows how vulnerable children and women still are in our society.

Rape is a criminal offence, and bringing the rapists to justice is the responsibility of the police. While it is imperative that the police do their part honestly and professionally, the role of a community in raising awareness and deterring criminals is paramount. A society needs to protect its vulnerable members. Community leaders are especially expected to play a proactive role in this regard and, in case of such crimes, help police catch the culprits, not try and shield them. Often rape victims feel disinclined to take legal recourse given the complicated justice delivery system in our country, which makes it all the more important that they are properly aided and provided moral support by their community. A shared sense of responsibility by police and the community can go a long way in preventing such heinous crimes.

Kudos to Bangladesh's green factories

The world should recognise this feat

THE news that Bangladesh has more green RMG factories than any other country in the world is a delightful one. Over the last few years, Bangladesh's garment industries, the lifeline of the country's economy, have faced repeated calls to strengthen their factory safety and security. In this context, the fact that Bangladesh leads the way in building environmentally and structurally safe garment factories should reassure the foreign buyers that our industries are committed to addressing their concerns.

In total, 67 of Bangladesh's garment factories have received the Leadership in Energy and Environmental Design (LEED) certificate from the United States Green Building Council (USGBC). We commend them for setting such an extraordinary example. We call on others, which are still lagging behind, to follow in their footsteps. This certification should also serve as a reassurance to all parties concerned that Bangladesh has made, and is continuing to make, considerable progress in improving its garment factories.

We, however, recognise that our RMG industries have still a lot to improve, but this recognition indicates that Bangladesh is well ahead of many other garment-producing nations. We thank the rights groups and global industrial giants for continuously pushing Bangladesh's industries to make progress. However, they should also understand that it made such progress at a time when the global garment production business faces turmoil and intense competition, as many buyers are looking for cheaper products elsewhere in Africa.

Bangladesh's industries will flourish and be able to ensure labour rights and high-standard factory safety, only if global buyers are ready to support them and buy clothes at an increased price. The global giants' continued and increased participation in efforts to make Bangladesh's garment factories safer has been crucial. We are confident that all stakeholders would continue in the same vein.

IN recent times, numerous international rights organisations and leaders across the world have been arguing for the referral of the "ethnic cleansing" campaign of the Rohingyas in Rakhine State, Myanmar to the International Criminal Court (ICC). The world at least owes the Rohingyas an acknowledgement of their pain and suffering, as a fact, by holding the culprits and the instigators of the ethnic cleansing campaign accountable under the rules of international law. This piece explores the international law and politics involved in such an endeavour.

The information and evidence collated by various organisations including the United Nations (UN) and their statements issued to that end, point to the fact that the atrocities committed in Rakhine may amount to the international crimes of genocide and crimes against humanity enunciated in Articles 6 and 7 of the Rome Statute of the International Criminal Court, 1998 (Rome Statute) respectively. However, it must be noted that Myanmar is not a state party to the Rome Statute. Hence, the ICC cannot automatically exercise its jurisdiction over the alleged crimes perpetrated in Myanmar.

But as per Article 13(b) of the Rome Statute, the UN Security Council (UNSC), acting under Chapter VII of the Charter of the United Nations, through the adoption of a resolution can refer a situation, in which crimes such as genocide and/or crimes against humanity appear to have been committed, to the Prosecutor of the ICC,

even if the crimes have been perpetrated in, or by, a state that is not a signatory to the Rome Statute. Hence, such a referral by the UNSC would be required in the present scenario to give the ICC jurisdiction to try the alleged crimes committed in Rakhine since Myanmar is not a party to the Rome Statute.

The international law on the issue is quite straightforward but the politics, not so much. It is highly likely that any UNSC resolution with regard to referral

followed December 13, 1937. China is also no stranger to the sentiments that ensue when the commission and the true extent of the atrocities are denied and challenged respectively. The Nanjing Massacre is still fresh in the Chinese national memory, and disputes regarding its nature and extent continue to be a bone of contention in Sino-Japanese relations.

China and India are at loggerheads with each other to support the Myanmar

also keep in mind its close ties with Bangladesh—the country that is now home to over 700,000 Rohingya refugees. Additionally, Bangladesh needs to actively and persistently advocate and insist on such a measure in the UN and across its relevant diplomatic missions. Chastening the perpetrators of the ethnic cleansing is also in Bangladesh's interest as it is the best way of reassuring the Rohingyas of their safety and security in their homeland, thus moving a step



Ten Rohingya Muslim men with their hands bound kneel as members of the Myanmar security forces stand guard in Inn Din village.

PHOTO: REUTERS

It is highly likely that any UNSC resolution with regard to referral to the ICC would receive majority support but will ultimately fail due to a veto by China and Russia.

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China will veto the resolution because of its historically close ties with Myanmar and its geopolitical tussle with India to maintain its influence over the country. However, in recent times, China has been under increasing scrutiny for its treatment of the Muslim Uighur minority in Xinjiang. An affirmative vote in the UNSC could be an opportunity for it to recoup some of its lost credibility in the Muslim world. Moreover, China is no stranger to atrocities of mass murder and rape. Recently, we marked 80 years of the infamous Nanjing Massacre perpetrated by Japanese troops in the six weeks that

government. Both countries should outright support a referring resolution in UNSC. Regardless of India's stance, China should support such a resolution as a mark of respect to the horrors its people endured in the past and to demonstrate its commitment to the rules-based international order, over which it intends to wield considerable influence and authority as a superpower. Hence, even if the decision entails short-term political costs, it is more beneficial in the long-term and, more importantly, it is just.

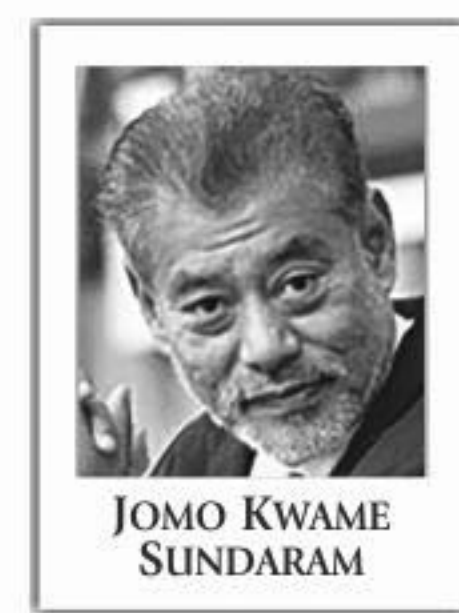
Now, Russia is unlikely to unilaterally veto a referring resolution. It too has a significant Muslim minority, which it would not want to antagonise. It should

towards their voluntary repatriation. Bangladesh is no stranger to the crimes of genocide and crimes against humanity, and it understands only too well the sentiment when the commission and magnitude of such crimes are denied and challenged.

In the end, a "people" who have been subjected to mass killings, rape, and destruction of their homes deserve justice, and such atrocities and their perpetrators—no matter the political and economic ramifications—must be condemned and punished.

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Model trade deal con



JOMO KWAME SUNDARAM

IN early 2016, the Trans-Pacific Partnership (TPP) Agreement—involving twelve countries on the Pacific Ocean rim, including the USA—was signed in New Zealand. Right after his inauguration in January 2017, newly elected US President Donald Trump withdrew from the TPP, effectively killing the agreement as its terms require the participation of both the US and Japan.

Almost comprehensive, but hardly progressive

On 8 March 2018, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) will be signed in the presence of outgoing Chilean President Michelle Bachelet. After that, six countries must ratify the deal for it to take effect.

Twenty-two of the original TPP provisions will be "suspended", leaving over a thousand others intact. The 22 provisions have only been suspended, apparently to enable Washington to easily re-embrace the essentially US-drafted 6,500-page TPP Agreement.

The CPTPP will include several changes to the TPP, but will otherwise incorporate it. Besides the investment agreement, several onerous intellectual property and other provisions will be suspended. Some "side letters" can exempt some TPP11 countries on some matters. But otherwise, many of the most onerous TPP provisions remain.

The CPTPP Preamble can guide interpretation of, but not contradict, let alone override problematic TPP provisions. Meanwhile, some countries will remove all their tariffs on products from other CPTPP parties while others, such as Japan and Canada, will not.

Taking the widely criticised secrecy of such negotiations to a new extreme, no details of the "zombie agreement" will be released until after its signing. Despite promises to "engage with various stakeholders to get their views and feedback," most signatory governments have not conducted inclusive public consultations about the new agreement.

Already, TPP11 proponents have resumed chanting the mantra that the US-drafted TPP is a "model trade deal for the 21st century," seemingly oblivious of global economic transformations of recent decades and their implications.

Privileging foreign investment Meanwhile, CPTPP privileging of foreign investment from TPP11 countries may well perversely encourage businesses to incorporate abroad as they will be better able to make demands on the government than they can currently do as nationals.

The CPTPP enables non-TPP11 firms with branches in TPP11 countries to use it to their advantage, e.g., investor-state dispute settlement (ISDS) provisions will

TPP11 developing countries will fare better.

Lower interest rates abroad in recent years due to unconventional monetary policies, such as "quantitative easing", have enabled highly leveraged foreign portfolio investors to increase their ownership of the corporate sector in many emerging market economies.

Capital account liberalisation has enabled net capital outflows despite sometimes inducing temporary episodes of massive inflows into emerging market economies. With greater external vulnerability the inevitable consequence, when such portfolio investment inflows are inevitably reversed, capital account management measures may be needed,

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consequences of trade liberalisation are increasingly recognised, replacing the naive claim that globalisation would lift all boats. Nevertheless, CPTPP advocates still dismiss research doubting the modelling assumptions of the modelling projections they rely on.

Meanwhile, US President Trump has already announced that he "would do TPP if we were able to make a substantially better deal." Judging by his administration's new demands in the ongoing North American Free Trade Area (NAFTA) renegotiations, this would presumably involve even stronger pharmaceutical patent protection and greater US corporate control of international e-commerce.

The TPP11 countries are likely to give in to US demands. With very modest prospective trade gains from the original TPP, US withdrawal has made the gains from the CPTPP even more paltry, making the TPP11 desperate for US participation. For Japan's government and some others, the TPP will draw the US back into a stronger anti-China regional coalition.

Hence, the TPP11 are so keen to bring the US back into the TPP that they are likely to accede to Trump administration demands. By joining the TPP on revised terms, ostensibly "putting America first," Trump can thus "prove" that he is a much better negotiator than his predecessors, especially Obama.

Jomo Kwame Sundaram, a prominent Malaysian economist, is former United Nations Assistant Secretary-General for Economic Development. Copyright: Inter Press Service



New Zealand Prime Minister John Key and ministerial representatives from 12 countries pose for a photo after signing the Trans-Pacific Partnership agreement in Auckland on February 4, 2016.

PHOTO: MICHAEL BRADLEY/AFP

allow investors from other TPP11 countries to sue the host government, in a special international tribunal, for unlimited compensation and compound interest.

As firms incorporated in other TPP11 countries may also enjoy lower taxes and other incentives, the recent trends of greater outward than inward FDI may well accelerate. China, India and other emerging market economies are already struggling to cope with such "roundtrip" FDI through offshore tax havens, and there is little reason to believe smaller

but disallowed by the CPTPP.

Begging for US participation In their efforts to justify it, CPTPP proponents have again greatly exaggerated trade benefits while ignoring the two US government studies—by the Department of Agriculture's Economic Research Service and the International Trade Council—both projecting very modest gains from the TPP, despite including the US then.

After the "Brexit" referendum and Trump's election in 2016, the mixed

LETTERS TO THE EDITOR

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Reform the quota system

At a time when many students are struggling to secure a job in public sector, the government is quite impasse towards the students' rational demands to reform the quota system. There is a humongous 56 percent quota in the BCS exam, the most competitive public recruitment exam in the country.

In the 38th BCS exam, for example, there were 2024 vacant posts, of which 1132 posts—more than fifty percent of all posts—were singled out for the quota holders, who constituted less than 25 percent of all candidates. This is a form of discrimination. In addition, the government has recently lowered the minimum age required to be a freedom fighter. This will undoubtedly increase the number of freedom fighters as well as the number of candidates under quota.

I am not opposing the quota system altogether, but I think the system, as it is, cannot continue forever. It must be reformed. Many countries in the world offer quota to disadvantaged groups of society, but nowhere in the world is the system so discriminatory.

The Daily Star has reported that the Public Service Commission recommended bringing changes in the existing quota system several times. We urge the government to strike a balance in the recruitment system. Otherwise, the problem will be acute in the near future.

Shamir Sarkar, University of Dhaka