

4th International Conference on Bangladesh Genocide and Justice

Organized by
Liberation War Museum

Venue : International Convention Centre, CIRDP

27 February – 1 March, 2015

Opening Ceremony : 27 February, 2015

4.00 PM

Address of Welcome : Dr. Sarwar Ali, Trustee, LWM

Aims and Objectives of the Conference : Mofidul Hoque, Trustee, LWM

Video Message from H.E. Mr. Adama Dieng, UN Special Adviser for the Prevention of
Genocide and Responsibility to Protect

Foreign participants : Judge Daniel Horacio Obligado and Amy Fagin

Chief Guest : Abul Hassan Mahmood Ali MP, Foreign Minister, GOB

Vote of Thanks : Ziauddin Tariq Ali, Trustee & Member-Secretary, LWM

5.30 PM Plenary Session: **Victim Nation's Right to Justice: Different Reality, Different Path**

Daniel Feierstein, President, International Association of Genocide Scholars

Elizabeth Silkes, Executive Director, International Coalition of Sites of Conscience, New York

Barrister Tureen Afroz, Prosecutor, ICT-Bangladesh

7.00 PM : Cultural Evening – *'The Sun in the Eastern Sky'*, Dance presentation by Dhrupad

Kalakendra, Directed by Shukla Sarkar

Day II : 28 February, 2015

9-30 am to 11-00 Working Session I: **Crimes of Sexual Violence and Remedies for Survivors**

Dr. Helen Jarvis, Formerly of the ECCC, Cambodia

Michel Gottret, Senior Adviser to the Task Force Dealing with the Past, Switzerland

Umme Wara, Dept. of Criminology, Dhaka University

Professor. Silvina Andrea Alonso, Researcher, Argentina

11-00 to 11-15 Tea-break

11-15 to 1-00 P.M. Working Session II: **Memory, Justice and Media : Role of International Community in Promoting Justice**

Paulo Casaca, South Asia Democratic Forum, Brussels

Helmut Scholz, Member of the European Parliament, Germany

Professor Irene Victoria Massimino, Argentina

Bangladesh : Barrister Tapas K. Baul, Prosecutor, International Crimes Tribunal-BD

1-00 to 2-00 PM : Lunch-break

2-00 to 3-45 PM Session III: **Judge's Panel : Experiences and Lessons Learned**

With the participation of Judges from Argentina, Cambodia and Bangladesh

Judge Daniel Horacio Obligado, Argentinian Tribunal

Judge Agnieszka Klonowiecka-Milart, ECCC, Cambodia

Justice A.T.M. Fazle Kabir, Member, Law Commission & Former Chairman, ICT-BD

3-45 PM to 4-00 PM : Tea-break

4-00 to 5-45 PM : Working Session IV: **Role of Art and Research in Confronting Genocide**

Amy Fagin, USA

Wakilur Rahman and Samina Lutfu Nitra – Bangladesh

Miriam Beringmeier, Germany

Nazmul Islam, Rutgers University, USA and Kaustabh Adhikari, University College of London, UK

Day III : 1 March, 2015

9-30 AM : Working Session V: **Post-genocidal Reality and Justice Responsibilities : Formal and Informal Ways to Confront that Past**

Michal Moskow, Genocide Researcher, USA

Andrea Bartoli, Genocide Scholar, USA

Volker Nerlich, Legal Officer, Formerly of the International Criminal Court

Mofidul Hoque, Trustee, Liberation War Museum, Bangladesh

11-00 to 11-15 : Tea-break

11-15 to 1-00 : Working Session VI: **Victim's Voice for Justice**

Shyamoly Nasreen Chowdhury, Asif Munier, Nizamuddin Ahmed

Film-screening : Regional Hearing on Sexual Violence

1-00 to 2-00 : Lunch-break

2-00 to 4-00 : Plenary Session: **Why Genocide and How to Prevent Genocide**

Main Speaker

Ashis Nandy, Senior Fellow, Centre for the Study of Developing Societies, India

Discussants

Daniel Feierstein, IAGS, Helen Jarvis, Cambodia, Paulo Casaca, Brussels, James Stewart, Deputy Prosecutor, ICC

4-00 to 4-30 : Tea-break

4-30 : **Closing Session**

REPORT

4th INTERNATIONAL CONFERENCE ON BANGLADESH GENOCIDE AND JUSTICE

February 27- March 1, 2015 | CIRDAP International Conference Center, Dhaka

Organized by: Liberation War Museum

Liberation War Museum of Bangladesh organized International Conference on Bangladesh Genocide and Justice for the 4th time in Dhaka from 27th February to 1st March 2015. The venue was Auditorium of International Conference Center (CIRDAP), Ramna, Dhaka. There were total 19 foreign genocide scholars and judges from 9 different countries including Germany, Argentina, United Kingdom, Cambodia, India, Bangladesh and others. More than 100 registered participants attended this conference; amongst them most were students and young professionals.

The central issue of this 4th International Conference was to speak for justice for the genocide victim across the world. The genocide scholars discussed on what justice is for the genocide victim as a national state and individual and communal target, victim nation's right to justice, how justice can be ensured, crimes of sexual violence and remedies for the survivors, right of victim state for holding trial of the perpetrators, role of international community in promoting justice, role of art and research in confronting genocide, post-genocidal state and social responsibilities, ways to prevent genocide, war crime trial procedure in Bangladesh, future steps, etc. Several Judges shared their personal experiences what they had while dealing with genocide cases and genocide victims in the court. Bangladeshi genocide scholars also advanced their opinions, prosecution lawyers of International Crimes Tribunal of Bangladesh also spoke on trial procedure, some of 1971 war victim's family members shared their tragic experiences. The participants and the resource persons engaged in several interactive discussion sessions throughout the conference.

The Conference ended up with taking a commitment to stand against genocide and also to ensure justice for the victims.

Short Descriptions of the Foreign Participants:

1. Daniel Feierstein, President, International Association of Genocide Scholars, Argentina.
2. Judge Daniel Horacio Obligado, Member of the Argentinian Tribunal.
3. Irene Victoria Massimino, Lawyer, Argentina.
4. Paulo Casaca, the President of South Asia Democratic Forum, Brussels.
6. Amy Fagin, Genocide Scholar and Artist, USA
7. Ashis Nandy, Senior Fellow, Centre for the Study of Developing Societies, New Delhi, India.
8. Helen Jarvis, formerly Chief of the Public Affairs Section of the ECCC, Cambodia.
9. Agnieszka Klonowiecka-Milart, ECCC Judge
10. Andrea Bartoli, Dean, Seton Hall University, USA
11. Volker Nerlich, Legal Officer, ECCC.
12. Elizabeth Silkes, Director, International Coalition of Sites of Conscience, NY, USA.
13. Helmut Scholz, Member, EU Parliament.
14. Michel Gottret, GAAMAC, Switzerland.
15. Michal Moskow, Researcher, USA.
16. Miriam Beringmeier, PhD candidate, University of Hamburg, Germany.
17. Lucie Bovet, Researcher, Switzerland.

MINUTES OF THE CONFERENCE

DAY I: 27th February 2015

Opening Ceremony:

The 4th International Conference on Bangladesh Genocide and Justice started on 27th February 2015 at 4.00 pm at CIRDAP. Dr. Sarwar Ali, Trustee of Liberation War Museum (LWM), Bangladesh welcomed all including the respectable foreign genocide scholars, judges, national guests, participants, representatives of media and others. He conveyed his deepest gratitude to the foreign guests for attending this conference ignoring the strike hassle in our country, and also thanked the national scholars for their wide participation. Then, Mofidul Hoque, Trustee, LWM described the aims and objectives of this conference. He described that “LWM has been organizing International Conference on Bangladesh Genocide and Justice for last 4 years. This is the 4th conference which aims at informing the international community and also the young generation of our time about the genocide that took place in 1971 War, how the genocide offenders were left unpunished for so many years, the on-going battle of bringing the genocide offenders into trial, the success of our time to bring the local war criminals into trial, the contemporary challenges, role of the International Crimes Tribunal, issue of justice to the genocide victims, what are the tasks of present and future generation of our country”. He concluded by dedicating this conference to our freedom fighters, genocide victims and Beerangonas.

Then a video message from H.E. Mr. Adama Dieng, UN Special Adviser for the Prevention of Genocide and Responsibility to protect, was played. In his message, he signified on the importance of post-conflict initiatives to build up a society of harmony through reconciliation and justice.

Subsequently, Judge Daniel Horacio Obligado and Amy Fagin provided their thankful notes for and on behalf of all other foreign participants and also wished for successful completion of this conference. Thereafter, the Chief Guest Mr. Abul Hassan Mahmood Ali MP, Foreign Minister of Government of People’s Republic of Bangladesh gave his valuable note thanking the LWM for organizing this conference which is of great importance for our country. He also thanked the foreign guests for coming into Bangladesh and attending this conference. He also thanked the local participants; especially the students and young professionals for enlighten this conference. He went on thanking the Father of our nation Bangabandhu Sheikh Mujibur Rahman for leading the liberation war and giving birth to independent Bangladesh. He also mentioned about the contribution of people from all classes in our liberation. He described how delay caused and what obstacles had to face in this way of ensuring justice. He wished a successful completion of this conference and opened the conference.

The opening ceremony came to an end with a vote of thanks given by Ziauddin Tariq Ali, Trustee and Member-Secretary, LWM.

**PLENARY SESSION: VICTIM NATION'S RIGHT TO JUSTICE: DIFFERENT REALITY,
DIFFERENT PATH**

Chair of the session:

Mofidul Hoque

Speakers:

Daniel Feierstein, President, International Association of Genocide Scholars

Elizabeth Silkes, Executive Director, International Coalition of Sites of Conscience, New York

Barrister Tureen Afroz, Prosecutor, ICT-Bangladesh

Daniel Feierstein, President, International Association of Genocide Scholars:

Daniel Feierstein for the first instance talked about the challenges of the international tribunals in response to genocide and State crimes. By creating an international tribunal, apparently a State can put an end to the impunity. Political instability can be of a great hindrance in establishing the tribunals. Secondly, in terms of mixed and national tribunals, there exists a long process of the involvement of the society, for example, the Courts of Argentina, Cambodia and Chile. In the trials inside the country, there appears different roles in the society, for instance, the victims, the perpetrators etc. Like in Argentina, when there has been found various elements of dictatorship of the perpetrators, with the societies' protest and involvement, eventually such dictatorship were put into an end.

And the speaker also pointed out some of the effective ways in terms of impunity, namely the universal jurisdiction, the establishment of the Truth Trials, not providing all the elements in the impunity loss, naming and shaming, the participation of the other foreign countries in the tribunal.

The speaker ended his speech by relating those challenges with the limitations and challenges of the International Crimes Tribunal (Bangladesh), namely, the less involvement of the general people in the tribunal, the less involvement of other international tribunals, the role of justice by properly analyzing and bringing out the possibilities, the controversies on the qualifications of the judges of the ICT-BD, the continuous questioning on the death penalty, and the extradition.

Elizabeth Silkes, Executive Director, International Coalition of Sites of Conscience, New York:

The discussant talked about the role of civil society, memorialization and the situations of post genocide. She expressed the possibilities of memorialization by creating memorials, which is directly linked with the Global Initiative for Justice, Truth and Reconciliation, for instance, the Kigali Genocide Memorial in North America, and also some other memorials in Europe, Latin America, Russia, Asia and Africa.

In relation with other countries, the discussant highlighted the Liberation War Museum as a role model in establishing Bangladesh transition. She made an appraisal on the museum for being itself a great aspiration in the transitional justice and the memorialization process and nonetheless, ensuring peace and solidarity.

Elizabeth also focused on the remarkable contribution of the donors in the transitional justice program. Here she made an example of the rapid response of the international NGOs, in helping out the vulnerable conditions in El Salvador and South Sudan. And she also mentioned the unique way of memorialization in the Cons Hill, a South African museum where the former prisoners act as the tour guides and narrate the whole atrocity to the visitors. The speaker also introduced the audience about the Body Mapping project in Kenya and Liberia, where the survivors share their stories and reflect on the issues related to truth justice and reconciliation.

One of the important aspect of the post genocidal stage in Cambodia is that the young generation is taking part in order to collect oral history and interviewing the elders, the ones who are the victims of Cambodian genocide. She discussed more on the International Peace Archive in Guatemala where the societies actively participate through activating the archives, establishing the memorial sites and so on. On the other hand, she commented that the collection of oral histories can also contribute to the memorialization process as well as to reconcile and survive in the post genocide stage.

Barrister Tureen Afroz, Prosecutor, ICT-Bangladesh:

The speaker started her presentation by arguing on the debates of the recognition of Bangladeshi genocide and the death figure during the Liberation War of 1971. There she pointed out the statements guaranteeing the recognition of the genocide of Bangladesh, namely the International Commission of Jurists in June, 1972 and the Hamidur Rahman Commission Report in 1974. Her presentation featured the characteristics and uniqueness of the International Crimes Tribunal , Bangladesh. As a prosecutor, she experienced how this tribunal and its Act have internationalized

the international law, even though being a domestic tribunal trying the crimes of international nature. She pointed out the Tribunal's legal transplant as per international criminal law as well as home grown enactment. She also mentioned that trying the perpetrators of 1971 is not the individual responsibility of the government of Bangladesh, rather it is a shared responsibility between the State and the international community. In establishing such Tribunal in Bangladesh, the constitution itself has also given the protection under Article 47.

Then the speaker explained to her audience that though Bangladesh is a signatory State of the ICC and the Rome Statute, but the ICC couldn't try the accused who have committed such brutalities during the war of 1971, as it didn't have any such jurisdiction to try those crimes which have been committed before its establishment, which is 1 July, 2002. In this regard, the State had no alternative than to enact the ICT Act and subsequently to establish a domestic tribunal.

Since its establishment, the ICT Bangladesh has been a cost effective domestic tribunal in ensuring high quality justice, and it is free from direct cooperation of the international cooperation; which means this Tribunal do not need any financial assistance from the international organizations since it has its own budget fulfilling by the State and it ensures speedy trial as it doesn't need to directly rely upon the advice or judgment of the international experts. Along with these, ICT Act is itself unique for including the political group as one of the victim groups in the definition of genocide, which even not inserted in the genocide convention. Furthermore, she spoke on the right of conditional bail which has been ensured in none but the ICT Bangladesh, and the testimonies of war babies. She also mentioned the role of the prosecutors in regards to the proximity in encouraging the witness, rape victims and others who are enlisted as victims. As per the recent controversies on Death penalty and the unwillingness of those States to extradite the accused of 1971 genocide, the presenter argued that only death penalty has not been given to the perpetrators through this Tribunal, for instance, Ghulam Azam was convicted for 90 years imprisonment, Alim was given the conviction of lifetime imprisonment, and Eng. Abdul Jabbar for lifetime imprisonment and fine. After pointing out specific features such as Right to Appeal, Review, and seeking Pardon as per the constitution of the Peoples' Republic of Bangladesh, Tureen Afroz ended her speech by giving three observations, one, intellectual killing as per Mujahid's verdict; re-integration of the anti liberation force in the politics which is disgraceful for the State as per the Nizami's verdict; and the rape victims to or war heroines to be given as the highest gallantry along with other freedom fighters.

Question and Answer Session:

The chair of the session, Mofidul Hoque allowed the audience who came up with the queries and observations under this theme. Ambassador Waliur Rahman, who has been directly involved in the justice procedure of the genocide of 1971, wanted to know from Daniel Feirstein about his observations in regards to the appeal and review process of the ICT Bangladesh. In response to which, Daniel stressed on this issue and commented that through appeal and review process, this Tribunal can experience the possibility of ensuring fair justice. Moreover, on the question of whether this Tribunal has become a failure in adding the international essence or not, Daniel replied that certainly this Tribunal has added some variations in the criminal justice, for instance, the insertion of political group as victims of genocide in the definition of genocide of the ICT Act which is very remarkable.

On the question of extradition and the criticism of death penalty, Barrister Tureen Afroz replied that it depends on the prosecution tactics, and an organized movement should be taken by the international community that it doesn't necessarily mean that the extradited accused will not be directed to death penalty unless the facts and circumstances relate to his commission of crime and the judge announces a verdict, on the other hand, non-extradition cannot guarantee the free life of the accused. Daniel Feirstein made his remarks by saying that he is not supporting the death penalty since unlike the perpetrators, we are not willing to take lives. And finally, on answering Colonel Sazzad, a Freedom Fighter's question of Islamic extremism and how to protest on the propaganda by the perpetrators, Daniel Feirstein mentioned that as a great challenge. The reality is that the lawyers sometimes face problems in understanding the specificity of genocide and deals with a passive resistance against the perpetrators.

First day of the conference ended up with the cultural event, a dance presentation titled 'The Sun in the Eastern Sky' which was based on the emergence of Bangladesh in 1971. This performance was presented by Dhrupad Kalakendra and directed by Shukla Sarkar.

DAY II: 28 February 2015

Session I: Crimes of Sexual Violence and Remedies for Survivors

Chair of the Session:

Dr. Nuzhat Chowdhury

Speakers:

Dr. Helen Jarvis, Formerly of the ECCC, Cambodia

Michel Gottret, Senior Adviser to the Task Force, Dealing with the Past, Switzerland

Umme Wara, Lecturer, Department of Criminology, University of Dhaka

Professor. Silvina Andrea Alonso, Researcher, Argentina

Dr. Helen Jarvis, Formerly of the ECCC, Cambodia:

In the first instance, the speaker talked about the presence of rape during a war and also about using the term rape and pillage together. From her point of view, rape doesn't only mean the physical abuse rather it also deals with the abduction and sexual slavery. In front of the international community, the crime of rape were regarded as a disciplinary question only, and it meant the loss of chastity or purity, but not also as a heinous crime. The first example of introducing rape as a international crime and punishing the perpetrators in the International Crimes Tribunal, was the exclusive contribution of Bangladesh. In 1971, approximately 2,00,000 Bangladeshi women were brutally raped, tortured and faced unwanted pregnancy which remained unspoken due to the intervention of the geo-political factor. The speaker mentions that by naming these sexual victims as Beerangona is itself a possibility to make a positive change to the society and can be regarded as an attempt to recognize the sufferings of these war heroines.

Once again, during the Bosnian war, the question of rape fell under the attempts of sexual crimes, though there was no such implementation of legal or judicial process in regards to such crime. In 1998, in the case of Akayesu in ICTR, the crime of rape was regarded as an element of crimes against humanity and an instrument of committing genocide. In Cambodia, the crime of rape is named as moral offence as during the Khmer Rouge empire, 250,000 couples were forced to marry against their willingness as per the population policy. And the speaker also narrated a case of the ECCC, where a trans-sexual was brutally raped and then was ordered to re-identify herself as a man and was forced to marry a woman.

The speaker ended up her speech by highlighting the recognition of Beerangona, which can be a particular perspective in giving honor to those victims of sexual violence.

Michel Gottret, Senior Adviser to the Task Force, Dealing with the Past, Switzerland:

In respect of the hurdle that is faced in the post conflict situations, both by the traumatized victims and the helpless State, there must exist some holistic approach in dealing with the past incidents. And thus the project of Dealing with the Past stands with this motive. At the first instance, the speaker introduced his audience about the United Nations Resolution in 1325 to address these problems; providing special care in prosecuting the crimes and the accused, organizing the new lives

who are traumatized and want rebirth of themselves. In order to prevent what happened in the past and to deal with it in the present, the speaker emphasized on increasing the women rights in the national legal framework, in order to mitigate the consequence. Here he also pointed out an exception of that case, which was happened in July 2012, when the participation of the women citizens in Libyan Election became the second best ever election under the observation of the European Union; and right after such achievement, these women were completely out of participating in any of the mediation or policies made by the State. The speaker also stressed on the role of International Humanitarian Law during and after the conflict situations. He commented that IHL has implemented almost nothing in the present world. He also highlighted on the minimum protection of human rights and dignity to the non-state armed groups.

Umme Wara, Lecturer, Department of Criminology, University of Dhaka:

The presenter made a contemporary analysis of different tribunals and trying the rape victims. She cleared the point that sexual violence doesn't include rape only, this includes offences like sexual mutilation, sexual penetration also. In explaining some of the forms of sexual violence during genocidal atrocities, the speaker highlighted the Tadic case under the ICTR, where first the sexual violence against males came out as a grievous crime and punished by undertaking the testimonies of the survivors of such sexual violence. In Akayesu's case, forced nudity and collective rape of women and girls were punished and these were regarded as the gender based crimes. The ICTR has directed the crimes of sexual violence as the integral part of committing genocide in Rwanda and in some trial chamber, it has been regarded as the crimes against humanity. And along with ICTR, the ICTY has made few glorious examples for trying the perpetrators of sexual violence in former Yugoslavia and punishing them as per tribunal procedure, for instance, Furundzija and Delalic and others. Both the ICTR and ICTY appointed the office of the prosecutor as the Legal Advisor Gender Related Crimes. The presenter made few observations on cases like Foca trial, Kvočka trial etc. Finally, she introduced the audience about the ICT- BD trials and the cases on rape and sexual violence during the 1971 genocide. She also mentioned about the Syed Qaiser's case which made an extraordinary precedent in punishing the perpetrator for committing rape and also the role of the State in the process of declaring the beerangonas (war-heroines) as freedom fighters. In order to uphold the honor and dignity of those victims of sexual violence during 1971, the speaker recommended the State and social recognition of Beerangonas as Freedom Fighters, providing rehabilitation of these victims including medical and economic support etc.

Professor. Silvina Andrea Alonso, Researcher, Argentina:

On behalf of the presenter, the abstract of the paper was read by Ms. Amy Fagin, an artist and genocide scholar from the USA. The paper was based on the atrocities during the dictatorship in Argentina during 1976-1983 that highly resulted with violence against women in the form of kidnapping, torture, rape, sexual harassment, killings etc. Another mentionable form was the abduction of pregnant women. The perpetrators, with an intent of stealing the babies and deal with the illegal adoptions, kept the women alive until the end of pregnancy. Eventually the babies were snatched away and the mothers were killed brutally by the instigators.

Question and Answer Session:

Dr. Nuzhat Chowdhury allowed the audience to ask questions to the respective speakers. Dr. Helen Jarvis remarked on the recognition and rehabilitation of the male victims of sexual violence during genocide and war. She also praised the State for recognizing the female victims of sexual violence as Beerangonas and eventually which is about to be coined as Freedom Fighters. Ms. Umme Wara emphasized that it is the right time to speak up for these victims and for this more youth activism is required. Colonel Sazzad gave an observation in response to the purpose of rape during 1971 genocide; and that is, the Pakistani forces were involved in rape and other sexual violence including forced pregnancies in order to ‘purify the blood’ of the Bengalis. Mofidul Hoque added with the notion by focusing the term of Beerangona and the post war contribution of Ferdousi Priyobhashini, a Beerangona to inspire other victims of sexual violence in moving on with dignity and honor.

Session II: Memory, Justice and Media: Role of International Community in Promoting Justice

Chair of the Session:

Khair Mahmud, Faculty member of the Department of Law, Jagannath University

Speakers:

Paulo Casaca, South Asia Democratic Forum, Brussels

Helmut Scholz, Member of the European Parliament, Germany:

Professor Irene Victoria Massimino, Argentina

Barrister Tapas Baul, Prosecutor, International Crime Tribunal- Bangladesh

Paulo Casaca, South Asia Democratic Forum, Brussels:

The international community's long silence and reluctance in recognizing the genocide of 1971 broke out right after the Bangladesh's announcement of the re-establishment of the International Crimes Tribunal procedure against the genocide perpetrators; and that protest include the foreign heads of the States, the press, diplomats. The speaker also claimed that instead of supporting the trials and the victims of the long bloodshed of 1971, the international entity continuously questioning the role of judges in the tribunal; claiming of partisan bias and criticizing the formal insufficiencies with procedure and research constraints in order to interrupt the trials of the ICT-BD. He also highlighted the fact that as the tribunal has declared that they will, from now on, focus on the national anti-revisionist legal framework; the same community of the international arena seemed to be reluctant in hearing the message. However, the presenter, later on, also explained the role of memory in the justice process highlighting the balance between the relativism and moral absolutism. He also emphasized on the victimization in South Asia in response to religious fanaticism, racism, and also the consequence of extreme nationalism. Later on, he made an example of Bangladesh and its long history of language movement, victimization of the minority race and also the intellectual killing which started in 1971 and still going on, of which the recent incident of Avijit Roy killing proves its existence.

Helmut Scholz, Member of the European Parliament, Germany:

In this session, the speaker talked on the World War II and the German social policy in relation to this atrocity. He also talked about the complicated political development directives of Germany and individual responsibility of during the war. He focused on the role of the international community after the World War II and the further development of International law, for example, the Rome Statute of the ICC has been expanded as an international navigator of the international criminal law and therefore regarded as the best preventive approach throughout the world.

The speaker also emphasized on the collective destruction of genocide, insertion of the norms of international law in daily politics, the role of European Parliament and how it deals with the concrete balance of power and helping out in international development of the States. Lastly, he urged to the national communities of Bangladesh to come out and support the justice process of the ICT BD.

Professor Irene Victoria Massimino, Argentina:

Ms. Irene made a comparative study on the Latin American Countries, namely Argentina, Chile, Guatemala and Colombian trials and the transitional justice process taken by them. By introducing the features of each of the tribunals, the presenter also discussed about the particularities and

shortcomings in regard to the trial process. For instance, the Doctrine of national security and truth report in the courts of Colombia; Nunca Mas Report in Argentinian courts during 1989-2003 and Truth Trials from 2003 till now; fostering land laws for the internal displaced people in Colombia in the consequence of the dictatorship; Valech Commission and especially the Pinochet trial in 1998 in Chile; Peace Agreement and CEH Report on Memory of Silence in Guatemala etc. Furthermore, she related the trials relating to genocide and crimes against humanity under those tribunals. Finally, she remarked on the future outcomes from these tribunals in seeking justice, memory and reconciliation.

Barrister Tapas Baul, Prosecutor, International Crime Tribunal- Bangladesh:

The presenter featured on the role of memory in promoting justice. In terms of collective memory, the Tribunal comes up directly with the verdicts as the facts of collective memory are common in all cases, whereas, in collecting individual memory, the prosecution depends on the testimony of the sole witness. In the question of reliance on memory of the past, the presenter firmly made his stance positively and mentioned Abdul Quader Mollah's case, where Momena Khatun was the sole witness. He also commented that there might be inconsistencies between the statements in dealing with the collective memory due to the lapse of time, and at times, due to this reason, the tribunal comes up with a consideration on that. In ensuring justice in response to the fair trial, the speaker mentioned few points, that are, an impartial tribunal; preferably a public trial, there has to be a right to appeal etc. And in relation with the contribution to the media, the speaker said that it too can be a source of evidence and it has an inspirational role to end the culture of impunity and as a reservoir of the memories.

Question and Answer Session:

In this session, Paulo Casaca emphasizes on prosecuting the 195 war criminals should be regarded as the main issue for the international community. Paulo also mentioned that in order to commit genocide, intent and an ideology are necessary and this does not have tolerance and plurality; whereas Helmut Scholz denied by saying that committing genocide does not necessarily demand the existence of an ideology. In the observation of Pinochet case, Ms. Irene commented that the process of extradition has been used in a wrong way in the Latin American courts.

Session III: Judge's Panel: Experiences and Lessons Learned

Chair of the Session:

Daniel Feirstein.

Speakers:

Daniel Horacio Obligado, Judge, Argentinian Tribunal

Agneiszka Klonowiecka-Milart, Judge, ECCC of Cambodia

Justice A.T.M. Fazle Kabir, Member of Law Commission and Former Chairman of ICT-BD

Daniel Horacio Obligado, Judge, Argentinian Tribunal:

Daniel Horacio Obligado shared his experience on the trials of crimes against humanity and genocide in Argentina. He highlighted the statistical content and methodology of extermination, situational context of kidnapping, torture and death, and also the facts, stages and consequence of different trials in Argentina. He also mentioned about the pardon process and the Amnesty laws; jurisdictional trials, trials for the truth in response to the idea of judging each commander at the trials of the Juntas. He also discussed about the logistics problems of the trials which are dealing the cases on crimes against humanity. He expressed a great urge in the idea of national group which reinforces the complexity of the genocide process. He also explained about the idea of partial destruction which is highly marked in the National Court of Spain. Along with these, the speaker also enlightened the audience about the authentic and exclusive proceeding of the trials in Argentina.

Agneiszka Klonowiecka-Milart, Judge, ECCC of Cambodia:

The speaker talked about the role of hybrid courts and tribunals in combating international crimes. Agneiszka narrated the history of hybrid courts, at the same time, pointed out the challenges, impacts and expectations relating to the trial procedure of these courts. In February 2000, the United Nations inserted the appointment of international judges as a part of the peace keeping mission. The idea first implemented in the Special Court of Kosovo; then in the East Timor, Sierra Leone and in Bosnia and Herzegovina later on. Afterwards, the court of Lebanon was established and a proposal was given in creating a court in the Central African Republic. Then the speaker explained the concepts of hybrid justice, power distribution in the justice process, lack of expertise who would serve justice against international crimes along with implementation of the national laws. However, the speaker explained to the audience about some of the features of the the Special Court Model of Cosovo which is highly accepted by the European Union and the United Nations. In regards to the challenges in working in the hybrid courts, Milart stressed on the heavy politics between the states, funding difficulties, language barriers as well as the hindrance in relation to the fairness, legality and promptness in ensuring justice, which eventually puts the judges in to the lack of capacity in adjudating specific crimes, and this makes a judge insecure and demeans the neutrality.

Justice A.T.M. Fazle Kabir, Member of Law Commission and Former Chairman of ICT-BD:

At the first instance, the speaker introduced the audience about the International Crimes Tribunal, Bangladesh. He stated the historical background and the establishment of the tribunal. He shared his thoughts on the limitation, challenges, experience and lessons learnt while working in the tribunal. Later on, he discussed about the nature of the crimes which the tribunal deals with, and utilization of some of the doctrines into the tribunal, for example, the presumption of innocence, burden of proving guilt, and also dealing with the limited number of witnesses. He highlighted the fact of producing the doctor and defense counsel while interrogating the accused and the defense witnesses. Furthermore, he shared his thoughts on the controversies behind the term international standard in regard to this tribunal. In relation to this, the speaker gave some extensive ideas on different provisions of the ICT Act, 1973 and the compliance of the standard of the tribunal. Another controversy made by the international community is the death penalty in this Act.

The speaker also discussed on some of the issues on that. Finally, he made a remark on the facilities given to the accused under the ICT Act, 1973. For instance, meeting the accused during court hours, allowing the food items sent by the families of the accused, providing health friendly vehicles to accused traveling from the jail to the tribunal, which no other ad-hoc tribunal allows except the ICT BD. Nonetheless, the jail authority is always mindful about the rights and needs of the accused under the tribunal.

Question and Answer Session:

After the presentation, the chair of the session opened the floor for discussion between the audience and the speakers. Agnieszka replied on the challenges that the international judges face in the national courts. ATM Fazle Kabir, in response to the trial of 195 prisoners of war, replied that the Tribunal is trying to bring them in Bangladesh, but Pakistan is yet not ready to try them. The only way to proceed with ease might be creating an international pressure to that State to try those war criminals. Barrister Tureen Afroz made an observation that even though the tribunal provides proper facilities to the accused during the trial, still it has been always heard by the opposite party that the tribunal is not defense friendly.

Session IV: Role of Art and Research in Confronting Genocide

Chair of the Session:

Ziauddin Tarik Ali, Trustee of the Liberation War Museum.

Speakers:

Amy Fagin, Beyond Genocide Centre for Prevention through Education, USA

Wakilur Rahman and Samina Lutfa Nitra from Bangladesh
Miriam Beringmeier, PhD Candidate, University of Hamburg, Germany
Nazmul Islam, Rutgers University, USA
Kaustabh Adhikari, University College of London, UK

Amy Fagin, Beyond Genocide Centre for Prevention through Education, USA:

In her presentation, Ms Amy Fagin featured the concept of memorialization and the pursuit of justice in terms of genocide and post conflict situations. She narrated three case studies and made a comparative analysis, namely Mashantucket Pequot Museum in the USA, Campode Marte and El OjoqueLlora (the eye that cries) in Lima, Peru; and African Union Human Rights Memorial and Project (AUHRM) in Addis Ababa, Ethiopia. Here she explained to the audience about the history, area and some of the exclusive features of Mashantucket, and the challenges faced in upholding the concept of collective memory. Another one is the Campode Marte, the historic memorial that was built to commemorate 70000 victims of Peru's internal war during 1980-2000. Also she mentioned about the Truth Commission of Peru. She stressed on the fact that like El OjequeLlora, there has been difficulties in coating the knowledge of the violent past in the public places. Furthermore, she also explained the features about AUHRM which was built in July 2012, in recognition of thousands of people perished at this site. She remarked a positive aspect with the fact that, "Prevention through Education", with this theme these sites influencing the societies in developing cultural institutions in the memory of mass atrocities.

Wakilur Rahman and Samina Lutfa Nitra – Bangladesh:

Wakilur Rahman is a renowned cultural activist and an artist. In his paper presentation, he focused on the generations of Bangladesh in regard to the art forms. He mentioned Khudiram Bose's contribution during colonialism. And as for memorialization, he firstly stated photography as one of the strongest sources. Secondly, he discussed about the contribution of fine arts, monuments in confronting genocide and also their architectural aspects. Here he showed various photographs, posters, monuments relating to the genocide of 1971. He made an observation on the Bangladeshi rickshaw paintings and drawings, which is also an unique source of memorialization through emotional transformation in art forms.

Dr. Samina Lutfa is a sociologist, artist and teaching at the Department of Sociology, University of Dhaka. In her presentation, Samina emphasized on how does plays in the theatres in Bangladesh confront the genocide of 1971. She quoted from Benedict Anderson's play Imagined Communities,

“Nation is an imagined political community”. However, there have been some counter thoughts in regard to that saying. As the protagonists say, the gage and emblem of this freedom is the sovereign state.

Liberation war plays and the after independence plays are usually the stage plays, which are categorized into two types, one is based on the time depicted, and the other one is based on the themes depicted. The presenter made few examples relating to these plays, namely, Bornochora, Shomoyer Proyojone, and Jamuna, the resilience of Bangladeshi women. These stage plays especially focus on the community, images and the building of comradeship through the image of struggle.

And this is how through stage plays the State enters into the memorialization process and to narrate the history and atrocities of genocide to the nation at large.

Miriam Beringmeier, PhD Candidate, University of Hamburg, Germany:

In the development of International Criminal Law, as well as in the progressive transitional justice system, the importance of access to the court records of international criminal trials knows no boundary. Since the principle of complementarity as per the Rome Statute emphasizes International Criminal Court as a court of last resort, each State is obliged to deal with the perpetrators under the prosecution of international crimes committed either in its territory or in other State. In response to this, the presenter explained three aspects of the significance of access to court documents, namely, judicial transparency; how it can strengthen the society’s confidence; contributing to the history writing as well as to make an impact to the society, and development of the international criminal law which will be helpful in establishing the future trials. She also explained how research can be an objective in evaluation mechanism. This research can be conducted through various legal sources, judgments and indictments, trial broadcasts etc, which will be the result of preserving the court documents.

Nazmul Islam, Rutgers University, USA & Kaustabh Adhikari, University College of London, UK:

The presentation was based on the excess death toll among the Bangladeshi Refugees of the 1971 war. Due to scarcity of food, medicine, proper shelter in the refugee camps in India, a huge number of the refugees resulted into death and that was more than the expected usual rate of the death of Bangladeshis. The paper highlighted on the survey of Bangladeshi refugee death tolls in the refugee camps of Saltlake, Karimpur, Barasat, Banjetia and Lalbagh and focused on the difference of actual

death toll and expected natural death toll. This death toll of refugees should be included in the estimation of total death toll which was a consequence of the liberation war of 1971.

Question and Answer Session:

In response to a question from the audience on how is it possible to erase the stigma in response to the Beerangonas, Amy Fagin highly recommended the art therapy which will eventually help to come out from the trauma. And in response to researching on death tolls, Nazmul Islam stressed on the unavailability of data of the internal displaced persons and no hostage record during the 1971 war, which needs to be sorted out. Mofidul Hoque remarked that the idea of archival system in relation of research is quite new in Bangladesh. He also stressed on the unavailability of Refugee documents. However, the Tribunal has made all the judgments accessible through online which is highly praiseworthy.

DAY III: 1st March 2015

Working Session V: Post-Genocidal Reality and Justice Responsibilities: Formal and Informal Ways to Confront that Past:

Chair of the Session:

Amy Fagin.

Speakers:

Michal Moskow, Genocide Researcher, USA

Andrea Bartoli, Genocide Researcher, USA:

Volker Nerlich, Legal Officer, Formerly of the International Criminal Court:

Mofidul Hoque, Trustee, Liberation War Museum, Bangladesh:

Michal Moskow, Genocide Researcher, USA:

In this session, Michal Moskow emphasized on the importance of video, movies and fiction in memorializing genocide as well as educating people about justice process; in this regard, he especially mentioned about the students role in creating mass awareness on genocidal issues. For instance, the students of the Centre for Holocaust and Genocide Studies, University of Minnesota are taken to the concentration camps as a part of their course where they used to learn various facts about the genocide that has been committed years back.

Michal also mentioned about the movies which were based on the holocaust and genocidal atrocity, for example, Anne Frank movie of 1959, Lipstick; an American movie, Hotel Rwanda of 2004, A Golden Age in 2007. And as for the fiction and oral history, he focused on the very latest, The Golden Muslim in 2011 by Tahmima Anam, as well as Words of Heart, Total Recall, Fraction of time and memories, Death and Survivals, The Forty Days of Musa Dagh (1933), Night in 1958, Dawn in 1961, Schindler's List of Steven Spielberg and some other documents where it is largely highlighted we feel sympathy, not empathy. Everyone should have the responsibility to tell and re-tell the effects of genocide. There he mentioned the novel about the Balkans by Slevanka in 2001. He also explained how the camps were misused in order to commit mass atrocities and how the movies can contribute in the post genocidal follow up and discussions.

Andrea Bartoli, Genocide Researcher, USA:

At the very beginning he provided tribute to free thinker Avijit Roy who was brutally killed by Islami extremist recently. He largely focused on relation between the post genocidal state and social responsibility. In this regard, he talked about the state led initiatives and also the UN consensus of 2008 on iconic state narratives. Furthermore, he also emphasized the role of non-violence. In discussing the importance of the Truth and Reconciliation Commission, Andrea gave an example of Argentina, in revisiting the terror of violence. By stating Bangladesh as an iconic country, he made an appraisal on its universal solidarity and long historic struggle for independence. He stressed on the need for creative yet credible institutional responses.

In his explanation, he mentions three aspects of genocidal violence; power, meaning and relationships. He further discussed on the facts of international community discourse, individual responsibility and the distinct features of Justice.

Volker Nerlich, Legal Officer, Formerly of the International Criminal Court:

Before starting, Volker introduced the audience about his works and the organization. In his observations, Volker highly focused on the post genocidal realities throughout the world. By mentioning Article 4 of the Genocide Convention, he called attention to the State's role in ensuring punishment of the perpetrators for committing genocide.

In his speech, Volker covered the areas of Crimes against Humanity, Murder with War Crimes, The role of prosecution in regards to genocide, Documentary evidence, Chain of Command in military leadership, the controversies in regards to political will, effects of the non-prosecution of international crimes, the role of International Criminal Court, obstacles due to poverty and other factors in ensuring justice in terms of genocidal atrocities. Moreover, he also pointed out the issues on reparation of the victims, lacking in prosecuting international crimes. In the matter of prosecuting the crimes where the number of perpetrator is quite huge, the question lies whether the Court shall prosecute each of the perpetrators, or, how can the decision be made? Will that be morally okay?

The Crimes Tribunal of Rwanda is still criticized for its long term procedure of the trials and the accused facilities that were provided by the Tribunal during the trials. In order to select the perpetrators for prosecution, Volker mentioned three aspects; first of all, to acknowledge that not everyone associated with the crime can be tried, secondly, in response to the criteria of selection, it should be examined by the prosecutors whether sufficient evidence is found against such perpetrator, and also in selecting the cases, seniority of the perpetrators should be given the most priority. And thirdly, by ensuring transparency during each trial. Now, if the question comes on the consequence as of to those perpetrators who may not be prosecuted? The speaker responded to ignore apparently, but the highest mechanism shall be the establishment of Truth Commission to try them.

Mofidul Hoque, Trustee, Liberation War Museum, Bangladesh:

The speaker explained the features of the justice process in relation to the 1971 genocide and the barriers in trying the collaborators of the liberation war of Bangladesh. In his presentation, Mofidul Hoque highlighted the history of the post war situation of Bangladesh and the early efforts of the United Nations in ensuring justice and trying the left out 195 war Pakistani war criminals. Here he discussed about the Shimla Pact between India, Pakistan and Bangladesh as well as the enactment of International Crimes Tribunal Act. Due to strong international pressure and lack of expertise in establishing a Tribunal for trying the war criminals of 1971, Bangladesh had to release the 195 Pakistani prisoners of war and sent them back to their land. Afterwards, the assassination of the father of the nation, Sheikh Mujibur Rahman and as a result the collaborators ruling the State made a great challenge in creating an effort to fight for the justice. However, after the enactment of the Crimes Tribunal Act and enabling the tribunal to try the perpetrators of 1971 genocide as a domestic court but dealing the crimes of international nature, this is the high time for Bangladesh to try those 195 PoWs once again. The speaker made an urge to think about bringing back the war criminals and also to preserve the UN documents for the trial purpose.

Question and Answer Session:

Mr. Mofidul Hoque made an observation of the United Nations legal division during the insurgency of recognizing Bangladeshi genocide. He also made his point very clear by stating that the negation of the 195 war criminals issue has to be initiated. Ms. Irene suggested Mofidul Hoque to start the trials in the absence of the perpetrators in failing to extradite the war criminals. Volker Nerlich commented that using courts in establishing history is a dangerous exercise. He stated that he has observed that the International Criminal Court is not biased and encourages open discussion and pre-investigation.

Session VI: Victims Voice for Justice

Chair of the Session:

Colonel (Rtd.) Sazzad, Freedom Fighter

Speakers:

Shyamoli Nasreen Chowdhury, wife of Martyr Dr. Alim Chowdhury

Asif Munir Tonmoy, son of Martyr Munir Chowdhury

Shyamoli Nasreen Chowdhury, wife of Martyr Dr. Alim Chowdhury:

The speaker, the survivor of the genocide of 1971, narrated her story of survival and subsequent struggle with two little daughters after the liberation war. Furthermore, she described how her husband, a leading intellectual and renowned eye specialist of the then East Pakistan, was abducted from his house, tortured in the camps, and eventually killed right on the eve of independence of Bangladesh, on the 14 December, 1971 and his dead body was found in the rayerbazar graveyard.

Asif Munir Tonmoy, son of Martyr Munir Chowdhury:

Mr. Asif Munir, son of intellect, academician and prominent play-writer Munir Chowdhury who was brutally killed by the Pakistani Army on 14th December, 1971. He, by picturing himself as a four years aged kid during 1971, let the audience know how his father was brutally tortured and killed, how his mother alone brought them up, how the families like him struggled in their life, how they were eager for justice. He also shared their long and hurdle tussle in the way of demanding justice. He thanked the present Government for establishing ICT-BD and holding trial at least the local perpetrators/genocide offenders. He also inspired the young generation to stand for the spirit of liberation war and not to do compromise with the anti-liberation force.

The session ended up with showing the audience a film screening titled Regional Hearing on Sexual Violence.

Plenary Session: Why Genocide and How to Prevent Genocide

Key-note Speaker:

Ashis Nandy, Senior Fellow, Centre for the Study of Developing Societies, India

At the very first instance, the key-note speaker stressed on the long history of genocidal violence and brutalization worldwide. He also pointed out how in reality, a secular state cannot protect the victims in post genocidal period. In his view, the genocides committed in the 20th century are undoubtedly a mass killing in the name of ideology. For instance, in the Indian subcontinent, when the Hinduism and extremism was in high, Mahatma Gandhi, struggled against superstitions, and started fighting for non-violence and nationalism. The speaker also spoke on the factors related to genocidal atrocity, namely, religion as a faith or ideology, violence as means of technology and power, and the ideological distance in between the perpetrators and the victims. He also emphasized on the social and psychological impact of torture during genocide.

In his speech, Ashis Nandy referred a movie named “An Act of Killing”, where the perpetrators themselves acting and narrating the stories behind their intention of committing genocide. The speaker suggested this sort of movies can be a great source of memorialization and protecting honor of the victims. On the other hand, the speaker focused on how the victims’ families had been a part of the systematic attack and the killing of intellectuals has been used as one of the effective ways of committing genocide.

The speaker also pointed out the measurement of the destruction of the post genocidal stage and how the State mechanism undo the damages of genocide. And by highlighting the state of the victims of partial genocide, Ashis Nandy mentioned the after effect as traumatization.

Discussants:

Daniel Feierstein, IAGS

In response to the observations of Ashis Nandy, Daniel Fierstein commented that the prevention of genocide is a long term approach. Later on, he discussed about the projects on different identity construction, problems- both assimilation and divisional. He stressed out on living together in the

world in plurality. Afterwards, he explained the role of ideology, religion, secularism in genocide. Here he commented genocide as not the objective, rather a tool; and if it is a tool, religion can be a tool as well. Declaring himself as a secular person,

Daniel agreed on the fact that establishing secularism is quite challenging these days, In regard to this, he explained how to create strong moral responsibilities and how to make invisible genocide as visible and to prevent this, the ICC and the prosecution can be regarded as the best option to ensure justice; and the Rome Statute can make this utterly possible. He mentioned in order to prevent genocide, the best possible way would be to take the responsibilities of genocide. Through secularism, ideology and religion, we should continue thinking together for the prevention.

Paulo Casaca, Brussels:

At the first instance, Paulo Casaca thanked the main speaker for the provocative, useful way of asking crucial matters in regards to genocide. The discussant afterwards mentioned several incidents worldwide, starting from the Portuguese colonization to the Nazi Attack during World War II, the massive killing in Hiroshima. He commented when religion goes out of spirituality, the true humanity then falls apart. He discussed about how the existing documents carrying out the mass atrocities worldwide can be a proof of preventing genocide.

The discussant also gave some surviving examples ongoing through different programs in the world. The prevention of genocide is a fundamental debate, as he said. Psychiatric facilities should be delivered to the victims in regard to the post genocidal survival. With this issue, the discussant strongly pointed out that this sort of brutality which leads to commit genocide, are done not by the strangers, rather the victims and the perpetrators must have been close to each other before that. Here he gave few examples of Indian subcontinent, Rwandan Hutu and Tutsi and the German Jews. He also stated how partial violence can lead to genocide which should be prevented for the sake of humanity and universal solidarity.

James Stewart, Deputy Prosecutor, ICC:

The discussant introduced the audience about the components of the International Criminal Court (ICC) and highlighted the objectives of Rome Statute of the ICC. He also focused on the State parties of this Statute, categorizing the weakest participation of the Asia Pacific, as well as the non parties of the Statute, namely the United States, Russia etc. He strongly believes that the ICC works impartially and independently. In response to the ICC Jurisdiction, the discussant acknowledged

some limitation; however, he explained the trial procedure, investigation of the accused, obligation and limitations of the ICC. Nonetheless, James Stewart also discussed about the prosecution, individual charges, appeal, ICC registry, front line contacts in response to the registry and especially he put an emphasize on the role of the ICC in the prevention of genocide. Afterwards, he concluded his discussion by sharing his experience of talking with the Bangladeshi judges.

At the end the foreign participants concluded this conference taking the following remarks-

“Gathered together in Dhaka from 27 February to 1 March 2015 to discuss issues relating to Bangladesh Genocide and Justice, 17 scholars, Judges and activists from 9 countries have had the privilege to participate with our colleagues from Bangladesh and to hear representatives of the victims of the 1971 genocide in Bangladesh speaking of their long struggle for justice and their strong support for the establishment of the international crimes Tribunal in Bangladesh.

Those who suffered genocide and grave abuses, like so many others around the world, have had to wait for decades to achieve justice for the terrible crimes committed, and there continue to be many obstacles to this quest, but the achievements made to date have shown that justice delayed need not be justice denied.

Sharing experiences from Bangladesh, Argentina and Cambodia, as well as from other countries around the world, showed that different realities have followed different paths in designing and implementing judicial processes, as well as in efforts of documentation and memorialization undertaken in various parts of the world.

The conference discussed how these three national approaches can bring justice closely to the people and engaging victims directly in the process, in particular the Beerongonas (war heroines) of Bangladesh.

We wish to express our appreciation to the Liberation War Museum, not only for inviting us to participate in this important conference, but even more so for their long struggle to record the memories of the 1971 Liberation War; to seek justice for the victims; to educate the younger generations; and to draw lessons so that such crimes never happen again.”

Report Prepared by LWM Volunteers: Naureen Rahim, Syeda Nasrin and Emraan Azad

