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## **Bangladesh's Executions an Affront to Justice**

*"Political violence and repression are at levels not seen in decades."*

By Jared Genser

Last week, thousands of Bangladeshis poured into the streets to applaud the execution of an Islamist party official on charges of crimes against humanity linked to the country's 1971 war of independence. They were joined by supporters of the country's largest Islamist political party, Jamaat-e-Islami, whose members protested against the verdict. Last week's protests were not a unique event: There have been more than 92 days of political unrest this year alone, which the World Bank says has cost the country's economy \$2.2 billion, or around 1 percent of gross domestic product.

This year's protests began on January 5, the one-year anniversary of a contentious general election. The election was boycotted by the opposition Bangladesh Nationalist Party (BNP) and led to the reelection of Prime Minister Sheikh Hasina, the leader of the Awami League (AL). This election set off a battle between Hasina and Khaleda Zia, a former prime minister who heads the BNP – widely known as the "battling ladies." In response to this unrest, police have arrested thousands of activists and banned the opposition groups from holding demonstrations. The opposition has defied that ban, leading to more clashes across the country.

In fact, there are a number of signs that Bangladesh has descended into the worst period of political violence, state repression, and injustice for 25 years or more. As reported by leading local human rights group, Odhikar, 18 people are killed extra-judicially every month by Bangladeshi police, and torture is on the rise by law enforcement agents coupled with public lynching. More than 202 Bangladeshis, primarily members of the political opposition, have been disappeared by the Rapid Action Battalion, an elite anti-crime and anti-terror unit of Bangladesh's security forces. Other opposition activists have been harassed,

arrested, or forced to go into hiding. Odhikar itself has run out of money after it was deprived of foreign funds on Hasina's orders; its head, Adilur Rahman Khan, was abducted two years ago and detained for two months. The government has also targeted the media, arresting journalists, closing down television stations, and disrupting mobile messaging apps such as Viber and Tango. Bangladeshis who came out in support of Avijit Roy, a Bangladeshi-American blogger who was stabbed to death by Islamist extremists in February, have themselves been attacked by religious extremists for exercising their freedom of speech.

As if things couldn't get any worse, the government has undertaken a campaign of unjust trials of opposition leaders who are alleged to have committed war crimes during Bangladesh's 1971 war of independence, a bloody war against Pakistan that left 3 million dead and 200,000 women raped. Established by the AL government, the International Crimes Tribunal (ICT) was created in 2010. The mission of the ICT is to investigate and prosecute Bangladeshi nationals who allegedly collaborated with Pakistani forces during the war in committing war crimes, crimes against humanity, genocide, mass rape, and other international crimes. The tribunal has so far handed down verdicts to 18 defendants – all found guilty of offenses including crimes against humanity, murder, and rape. These trials have further polarized the country and represent an egregious affront to justice and rule of law.

Initially, the ICT had good intentions: to deal with the legacy of the 1971 war and hold perpetrators of atrocities accountable. Accordingly, in its early stages, the tribunal received considerable international support from the UN and the European Union, among others in the international community. Recently, however, the majority of the ICT's cases have targeted leading political figures from the opposition Jamaat-e-Islami party, which, together with the BNP, has become increasingly popular and threatened to take power from the ruling AL.

Most recently, Mohammad Kamaruzzaman, former assistant secretary general of the Jamaat party, was hanged in Dhaka for allegedly collaborating with Pakistan military forces in the killing of at least 120 unarmed farmers during the 1971 war. Kamaruzzaman's due process rights were violated by the Bangladeshi Government, which detained him for over a year without formally charging him, leading the UN Working Group on Arbitrary Detention to declare that his detention was disproportional and breached international human rights conventions. Kamaruzzaman's execution was carried out only five days after Bangladesh's Supreme Court dismissed his request for a review of the death sentence. Kamaruzzaman was the second Jamaat leader to be executed, after

another former Jamaat assistant secretary was first sentenced to life imprisonment by the ICT, but later executed after Bangladeshis protested against the sentence.

The international community has raised concerns about irregularities and due process violations in cases handled by the ICT. In Kamaruzzaman's trial, Human Rights Watch observed that the ICT refused the defense's submission of evidence, witnesses, and documents, and prevented the defense from challenging the credibility of the prosecution witnesses, whose testimonies were highly inconsistent. The UN High Commissioner for Human Rights also sounded the alarm on Kamaruzzaman's trial, urging the Bangladeshi Government to uphold its obligations under the International Covenant on Civil and Political Rights to ensure that all trials leading to the imposition of the death penalty comply with fair trial principles. Additionally, the EU and the International Commission of Jurists urged Bangladeshi authorities to commute all death sentences and introduce a moratorium on executions, intended to abolish the death penalty. Similarly, in 2013, a letter issued by U.K. Lord Carlile and signed by eight members of the House of Lords and leading international lawyers raised concerns over the ICT's processes after Chowdhury Mueen Uddin and Ashrafuzzaman Khan, residents of the U.S. and the U.K., respectively, were sentenced to death by the ICT *in absentia* after being found guilty of abducting and murdering 18 intellectuals in the 1971 war.

These calls have been ignored by the Bangladeshi Government. Currently, Bangladesh's Supreme Court is set to hear appeals from two individuals convicted of war crimes who want to challenge their death sentences. The appeals have been scheduled for April 28, despite requests from the petitioners that the appeal be scheduled the end of May so they can have adequate time to prepare.

While the Bangladeshi Government certainly took a step in the right direction by trying to come to terms with the legacy of the 1971 war, rather than sweeping it under the rug, the ICT's egregious due process violations and targeting of the political opposition doesn't do justice to the post-conflict judicial process the Bangladeshi people deserve. To live up to these standards, the ICT must be reformed to uphold all fair trial obligations specified by the ICCPR to ensure that domestic political divides are not the driving force behind the tribunal and that the accused are afforded due process protections. If the ICT can live up to these standards, it has the potential to be viewed as a legal tool rather than a political one and to help the Bangladeshi people overcome both past legacies of conflict and current unrest and polarization.

Today, on April 28, the people of Bangladesh had the chance to have their voices heard in municipal elections in the country's two major cities. Unfortunately, the opposition has boycotted the elections on accusations of widespread vote rigging. Fair elections are needed to give the Bangladeshi people the opportunity to hold the governing AL to account for using the nation's founding tragedy for political gain, and push for reform of the ICT to open the door to a judicial mechanism that lives up to domestic and international standards and bolsters rule of law rather than undermining it.

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