The War Crime Trial in Bangladesh
Policy position of Transparency International Bangladesh

The Context

Transparency International Bangladesh (TIB) considers war crimes including genocide, murder, mass murder, rape and gang-rape that took place in 1971 during the War of Liberation of Bangladesh as gross violations of human rights and crimes against humanity. These were also among the worst forms of abuse of power in the name of protecting religion perpetrated on innocent and unarmed people.

For four long decades, the perpetrators enjoyed impunity. Victims and others campaigned ceaselessly for this impunity to be challenged effectively so that such crimes could never again be repeated anywhere in the world. In many cases campaigners demanding trials and justice were themselves victimized and faced violent reprisals, particularly by the perpetrators and political forces that benefitted from impunity in the name of religion.

Righting the wrongs through Justice

The trials are about a national aspiration and obligation to right the wrongs – indiscriminate killings, mass killings, rape, gang-rape and torture on Bengalis and non-Bengalis, Muslims and non-Muslims - Hindus, Christians, Budhists. An estimated three million people were killed and two hundred thousand women fell victim of the brutality of rape and gang-rape in a short span of 9 months leaving behind a legacy of crime against humanity unparallel in history. The trials are about doing justice to victims, and bringing to justice the perpetrators who were allegedly involved in the crime directly and most actively.

Due process

TIB demands that impunity must be challenged effectively and justice must be done. At the same time, we demand that all trials must be held in accordance with due process, transparently and with fullest regard to the law, free from fear or favour. Trials must also be above partisan political influence and must not be used for political mileage.

The highest level of independence and integrity of the International Crimes Tribunal must be strictly upheld. All measures must be ensured to prevent undermining the credibility of the Courts and judgments.

Fear of justice being evaded

The Constitution of Bangladesh provides for the power of presidential pardon of any convicted person, which has been exercised by different governments on a partisan political basis. This has given rise to fears that those found guilty or facing trial may evade justice through political interference in the legal process. Such a possibility must be prevented.

Equality before law, full justice

TIB campaigns for promotion of good governance at the core of which are justice, rule of law, fairness and democratic accountability. There cannot be any discrimination in the court of law. The law must be applicable equally for all. Failure to do so will imply condoning violations of the constitutional provision of equality of all in the eyes of the law. TIB will continue to campaign against impunity and demand justice consistent with the legal provisions and in the due process.
Addendum

1. The on-going trials of war crimes and crime against humanity have been a subject of TIB’s interest because:
   a) Alleged crimes were not only crime against humanity but also worst forms of abuse of power;
   b) Failure to ensure justice has led to impunity for 4-plus decades; and
   c) Justice is indispensable for ensuring accountability.

2. From the perspective of TIB:
   a) The trials are about doing justice to victims, and bringing to justice the perpetrators who were allegedly involved in the crime as well as justice to those who have been victimized, intimidated and harassed over the years for campaigning for justice.
   b) Critical importance has been attached to the due process, transparency and fullest regard to the law without any bias, political or otherwise.
   c) The highest level of independence, credibility and integrity of the Tribunal must be strictly ensured.
   d) Equally important is to ensure that justice is not manipulated for political mileage.
   e) Primacy of equality of all before law and non-discrimination must be fully recognized.

3. The position taken in the wake of the court verdict on the above was not about our stance on capital punishment, nor an occasion to make a comment on capital punishment per se. It was about an opening created to correct a historical failure to challenge impunity for four decades.

4. TIB does not support capital punishment, nor did it applaud it as such. It commended that an opening has been created for the first time in four decades for justice to take place. That the verdict turned out to be the highest penalty permissible by the law of the land was a coincidence.

5. Therefore, it will be a gap in understanding and mistake to conclude that TIB supported capital punishment.

TIB remains committed to continue to campaign against impunity and demand accountability and justice in the due process. At the same time, we reiterate that we have not and will not under any circumstance support capital punishment. On the contrary, whenever opportunity arises, we will continue to support the campaign for elimination of capital punishment.

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