

# **TITLE: TRIAL BY BANGLADESH CRIMINAL TRIBUNAL: JUSTICE IMPARTED OR POLITICAL AGENDA?**

Submitted by:

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## **ABSTRACT**

Bangladesh became an independent state in 1971 after being under colonial rule of Britain and later of Pakistan for over two centuries. The war crimes that happened in Bangladesh are known all over the globe and were considered as gross violations of human rights and hence there was a need to initiate trials in order to have accountability of the offenders and to impart justice. At that point of time the entire Bangladesh was majorly divided into two political segments, the first one being led by Awami League who were pro independence and the second segment being led by Jamaat-e-Islam who were anti- independent politics i.e. who supported Pakistan. There have been instances of genocides all over Bangladesh by the Pakistani Military in cooperation with Bangladeshi collaborators. International Crimes Tribunal in Bangladesh was founded in the year 1971<sup>1</sup> during the time of India Pakistan war by the government of Bangladesh and was re established in the year 2009 almost after four decades. The tribunal was re established by the political party 'Awami League', which since the very beginning has been using nationalism as the tool to promote its own political agendas which are mostly based on anti- Pakistan sentiments. It is vital to note that over 30 verdicts have been given till date by

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<sup>1</sup> Muhammad Abdullah Fazi et al. , Bangladesh's approach towards international criminal law: A case study of International Crimes Tribunal Bangladesh, [https://www.researchgate.net/publication/335771621\\_Bangladesh%27s\\_Approach\\_Towards\\_International\\_Criminal\\_Law\\_A\\_Case\\_Study\\_of\\_International\\_Crimes\\_Tribunal\\_Bangladesh](https://www.researchgate.net/publication/335771621_Bangladesh%27s_Approach_Towards_International_Criminal_Law_A_Case_Study_of_International_Crimes_Tribunal_Bangladesh)

the tribunal and out of these verdicts, most of the accused persons have been established as war criminals who were in collaboration with the Pakistani army. Because of such decisions, since then there have been a lot of debate around the practices adopted by the tribunal in administration of justice. The fair trial rights as guaranteed by the Constitution, International Covenant on Civil and Political Rights and International Humanitarian Law have been repeatedly violated by the tribunal<sup>2</sup>. Apart for this the Tribunal has been established for the name sake and there is no international judges or prosecutor in the tribunal to ensure fair trial as has been done in the case of other tribunals like that of Nuremberg, Tokyo, Rwanda, Yugoslavia or the permanent International court of justice at Hague. To the utter shock the Pakistani military actually involved and later accused as war criminals were completely excluded from the prosecution. The entire standards and procedure of operation of the International Criminal Tribunal in Bangladesh is a matter of serious concern and this aspect has been debated time and again and the tribunal instead of imparting justice and providing for fair trial has been more actively seen to be using by the political parties as a tool to fulfill their own agendas. Many critics have also raised their voices against the whole issue and the standard of operation. In this paper the authors will discuss the history of the establishment of the tribunal, process of trial adopted by the Tribunal and to discuss whether the trial is more about imparting justice or just meeting the political ends and whether the tribunal actually meet the international standards. The authors will also discuss in detail various instances where the tribunal instead of providing fair trial has resorted to measures which were in gross violation of the international laid down norms.

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<sup>2</sup> Md. Awal Hossain Mollah, War Crimes in Bangladesh: Justice or Politics, 55 Journal of Asian and African Studies 652-665 (2020), [https://www.researchgate.net/publication/336847400\\_War\\_Crimes\\_Trial\\_in\\_Bangladesh\\_Justice\\_or\\_Politics](https://www.researchgate.net/publication/336847400_War_Crimes_Trial_in_Bangladesh_Justice_or_Politics)