

Dated 04.07.2012

IN THE INTERNATIONAL CRIMES TRIBUNAL-I, BANGLADESH,
Old High Court Building,
DHAKA-1000

ICT-BD CASE NO. 02 OF 2011

Chief Prosecutor

-vs-

Salahuddin Qader Chowdhury, Son of late Fazlul Qader Chowdhury of Goods Hill, Rahamatgonj, Police Station- Kotwali, District- Chittagong, and House No.28, Road No. 10/A, Dhanmondi Residential Area, Police Station-Dhanmondi, District-Dhaka.

Today is fixed for passing an order on charge matter and as such the record is taken up for order. Before passing the order, we want to provide a brief background and context of the case, its history, and the arguments put forward by both prosecution and defence before this Tribunal.

Introduction:- International Crimes Tribunal-I (hereinafter referred to as the “Tribunal”) established under the International Crimes (Tribunals) Act enacted in 1973 (hereinafter referred to as the “Act”) by Bangladesh Parliament to provide for the detention, prosecution and punishment of persons for genocide, crimes against humanity, war crimes, and crimes under international law committed in the territory of Bangladesh. This is, thus, a case bearing considerable significance for the people of Bangladesh as well as for the victims of international crimes committed in Bangladesh during the Liberation War, particularly between 25th March and 16th December 1971. As such, it is a remarkable occasion so far in the legal history of Bangladesh when we have the task to deal with the matter of framing the charge involving internationally recognized crimes, such as crimes against humanity, genocide and other crimes enumerated under section 3(2) of the Act.

Historical Context:

In August, 1947 the partition of British India based on two-nation theory, gave birth to two new states, one a secular state named India and the other the Islamic republic of Pakistan. The two-nation theory was propositioned on the basis that India will be for Hindus while Pakistan will be a state for the Muslims. This theory culminated into the creation of Pakistan which was comprised of two geographically and culturally separate areas to the east and the west of India. The western zone was eventually named West Pakistan and the eastern zone was named East Pakistan, which is now is Bangladesh.

Ever since the creation of Pakistan, the Pakistan Government adopted discriminatory policies backed by its bureaucracy and Army to rule over the people of East Pakistan that caused great disparity in every field including, education, welfare, health, armed services, civil bureaucracy, economic and social developments. One of the first patently discriminatory and undemocratic policies of the Government of Pakistan was manifested when in 1952 the Pakistan authorities attempted to impose Urdu as the only State language of Pakistan ignoring Bangla, the language of the majority population of Pakistan. The people of the then East Pakistan started movement to get Bangla recognised as a state language thus marking the beginning of language movement that eventually turned to the movement for greater autonomy and self-determination and eventually independence. Numerous Bangalees sacrificed their lives to realize Bangla as a state language. Since then, the people of East Pakistan started thinking for their own emancipation and started a political movement for getting provincial autonomy for East Pakistan.

In the general election of 1970, the Awami League under the leadership of

Bangabandhu Sheikh Mujibur Rahman won 167 seats out of 300 seats of the

300 seats 169 were allocated to East Pakistan of which Awami League won 167 demonstrating an absolute majority in the Parliament. Despite this overwhelming majority, Pakistan Government did not hand over power to the leader of the majority party as democratic norms required. As a result, movement started in this part of Pakistan and Bangabandhu Sheikh Mujibur Rahman in his historic speech of 7th March, 1971 called on the people of Bangladesh to strive for independence if people's verdict is not respected and power is not handed over to the leader of the majority. On 26th March, following the onslaught of "Operation Search Light" by the Pakistani military on 25th March, Bangabandhu declared Bangladesh independent immediately before he was arrested by the Pakistani authorities.

Pursuant to Bangabandhu's declaration of Independence, a provisional government-in-exile was formed on April 17, 1971 in Mujibnagar with Bangabandhu as the president of Bangladesh. In his absence, Syed Nazrul Islam was the Acting President and Tajuddin Ahmed was the Prime Minister who coordinated the operations to expel the occupying Pakistani forces, and to liberate Bangladesh.

With his declaration of independence, the war to liberate Bangladesh from the occupation of Pakistan military began that ended on 16th of December, 1971 with the surrender of all Pakistani military personnel present in Bangladesh before the Joint Indian and Bangladeshi forces in Dhaka. In the war of liberation that ensued, all people of East Pakistan wholeheartedly supported and participated in the call to free Bangladesh but a small number of Bangalees, Biharis, other pro-Pakistanis, as well as members of number of different political parties joined and/or collaborated with the Pakistani military to actively oppose the creation of independent Bangladesh. Except those who opposed, Hindu communities like others in Bangladesh, supported the Liberation War which in fact drew particular wrath of the Pakistani military and their

attack, persecution, extermination and deportation as members belonging to a religious group.

The road to freedom for the people of Bangladesh was arduous and tortuous, smeared with blood, toil and sacrifices. In the contemporary world history, perhaps no nation paid as dearly as the Bengalees did for their emancipation. In this process, 3 million (thirty lacs) people were killed, more than 2,00,000 (two lacs) women raped, about 10 million (one crore) people deported to India as refugees and million others were internally displaced. It also saw unprecedented destruction of properties all over Bangladesh.

To prosecute their policy of occupation and repression, and in order to crash the aspiration of the freedom-loving people of an independent Bangladesh some political parties including Muslim league both convention and counsel Jamate Islami, Pakistan Democratic Party and other small political parties, supported the actions of the Pakistan Government and the military setup number of auxiliary forces such as the Razakars, the Al-Badar, Al-Shams the Peace Committee etc, essentially to collaborate with the military in identifying and eliminating-all those who were sympathized with the Liberation of Bangladesh, individuals belonging to minority religious groups especially the Hindus, political groups belonging to Awami League and other pro-Independence political parties, Bangalee intellectuals and civilian population of Bangladesh. The truth about the nature and extent of the atrocities and crimes perpetrated during the period by the Pakistani military and their allies became known to the wider world through independent reports by the foreign journalists and dispatches sent home by the diplomatic community in Dhaka.

In order to bring to justice the perpetrator of the crimes committed in 1971, the International Crimes (Tribunal) Act, 1973 was promulgated. Due to political

Pakistan Government would try them but that has not yet been done. The movement claiming trial of perpetrators continued. However, no Tribunal was set up and no trial took place under the Act until the government established this International Crimes Tribunal on 25th of March, 2010.

Procedural History:-

Accused Salahuddin Qader Chowdhury was arrested and brought before this Tribunal on 02.11.2010. Since his arrest, he was attending the Tribunal when it was asked for. During the pre-trial stage some times the atmosphere of the court room was made worsen by the shouting of the accused and his counsel and as a result they were even cautioned. At one time accused Salahuddin Qader Chowdhury cancelled the vokatnama executed in favour of many counsel in order to conduct his case by himself and he was allowed.

On the basis of the investigation report of the investigating agency, the prosecutors submitted the formal charge on 14.11.2011 against the accused alleging that the accused as a member of Pro-Pakistani political party that is Convention Muslim League and leader of that political group and also as an individual and member of a group of individuals has committed crimes against humanity, genocide and other crimes in different places of Chittagong District during the liberation war.

On perusal of formal charge and documents available on records this Tribunal took cognizance of offence on 17.11.2011 against accused Salahuddin Qader Chowdhury under section 3(2) of the Act.

The Chief Prosecutor Mr. Golam Arif Tipu with prosecutor Mr. Zead-Al-Malum made elaborate submissions on the charge matter infavour of framing of charge against the accused. While the state defence counsel Mr. Badiuzzaman made elaborate submissions in support of the application for discharge and against the

executed by the accused Salahuddin Qader Chowdhury and filed an application for discharge. He was also heard on the point of framing charge and he made elaborate submissions against the framing of charge and for discharge of the accused. It may be mentioned here that when Mr. Ahsanul Haque Hena was appointed as a counsel by the accused the appointment of Mr. Bodiuzzaman as a state defence counsel automatically stood cancelled and accordingly Mr. Bodiuzzaman handed over all the papers supplied by the prosecution and received by him from the Registrar of the Tribunal to Mr. Ahsanul Haque Hena the learned counsel for the accused. In the order dated 13.03.2012, we have considered the prayer for discharging the accused along with the prayers and it was rejected. In the following paragraphs we summarize the submissions made by the counsels of the prosecution and the defence along with views of the Tribunal on the point if charges will be framed and in which counts.

Submissions by the prosecution and the defence:-

The learned prosecutor at the outset of his submissions drew our attention to the acts and atrocities allegedly committed by the accused during 1971 independence war within Chittagong District and within the territory of Bangladesh. It was submitted that the accused was personally involved in the killing of individual and group of individuals, torture, rape, looting, arson and the destruction of houses which comes under the purview of crimes against humanity genocide and other crimes mentioned in section 3(2) of the International Crimes (Tribunals) Act, 1973. He also submitted that the statement of witnesses and documents collected during investigation amply establish the allegations regarding commission of such acts and complicity of the accused with the offences as alleged which has been narrated in formal charge and in proving the same they have ocular documentary and other evidences which establish the offences mentioned, during the independent war of

Act in sections 3(2), 4(1) and 4(2) and discloses the material elements to constitute the offence of crimes against humanity, genocide and other crimes as have been enumerated therein.

On the contrary the learned counsel for the accused by filing an application for discharge on 15.01.2012 emphatically argued that no required elements to constitute the offence of crimes against humanity and genocide are available. The offences alleged are not well defined in the Act. The offences are not specified in the Acts and complicity of the accused therewith has also not been stated. He then submitted that the formal charge submitted by the prosecution is vague, indefinite, the elements of crimes are not defined and requirements of framing charges are absent, the nexus between crimes against humanity and international armed conflict are absent and the requisite knowledge about the alleged crimes by the accused is absent in the proposed charge. He then submitted that after the enactment of 1973 Act, jurisprudence of this issue has developed first, particularly by the different Tribunal. Moreover the allegations are vague and the accused shall not have sufficient scope to understand as to which allegations he is being tried and as such he is liable to be discharged. In support of his submissions the learned counsel drew our attention to number of international references including the decisions of ICTY, ICTR and also SCSL which have been cited in the application for discharge.

The learned counsel further submitted that on 06 September, 2010 Bangladesh acceded to ICCPR and became bound by the rights and obligations established by the ICCPR and following Article 2(1) ICCPR Bangladesh is to undertake to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present covenant, without distinction of any kind, such as race, colour, sex, political and national or social origin, property birth or other status.

(Macao)(1999) giving emphasis on Para 12 of the observation and about Vienna Convention of the law of Treaties. The learned counsel further submitted that the rule of law as evidenced by the introduction by the ICC elements of crimes, which compliments the ICC Rome Statute which recognized that there was a need to define crimes with the clarity, precision and specificity that many jurisdictions require for criminal law. By referring from judgments of ICTY and ICTR, he submitted that the attack must be wide spread or systematic with a clear knowledge about the commission of that offence but our Act does not contemplate this and the crimes are not adequately detailed. The provisions of Article 15(1) of ICCPR prohibit the prosecution and punishment under vague laws that do not clearly prescribe the conduct for which one may be punished.

In reply to those law points the learned prosecutor Mr. Zead-Al-Malum submitted that at this stage of hearing as to whether charges will be framed or not, the submissions of the learned counsel of the defence is not relevant. He also submitted that the learned counsel for the defence assailed the propose charge basically which has no legal value; the Tribunal is to consider the formal charge, the statement of witnesses and other materials and decide as to whether there are materials to frame charge. Upon perusing the formal charge and statements of the witnesses recorded by the investigating agency and the documents submitted there with, if the Tribunal is of opinion that there are sufficient ground to presume that the accused has committed an offence, then only the charge will be framed otherwise the accused shall be discharged. He further submitted that the allegations made in the formal charge are not vague rather definite and clear. He further submitted that the offences as mentioned in section 3(2) of the Act are clearly defined. The allegations and the documents submitted there with establish a prima facie case against the accused

and clear and as per provision of section 22 of the Act, the Tribunal formulated the Rules of Procedure which are itself sufficient to conduct a fair trial to which the Tribunal is duty bound. So we need not borrow anything from any other Tribunal. If the Tribunal observes that some reference from the other Tribunals are relevant, then they can consider them with persuasive value to reach at a proper decision. He further submitted that no where in the discharge application or in the submission of the learned counsel for the accused, it has been stated that the accused is innocent and he did not commit any offence in Chittagong District during the liberation War of Bangladesh. He further submitted that the International Treaties and comments are obligatory upon the state parties and Courts and Tribunals of a state party are to be guided by their domestic laws and this Tribunal being not a Hybrid Tribunal nor a Tribunal being set up by United Nations, rather set up under the provision of section 6 of the Act 1973 and the Act was promulgated by the parliament of the country after the Liberation of Bangladesh to try the offenders who committed the international crimes. This Tribunal is a domestic Tribunal which is competent to try the International crimes stated therein. In respect of incorporating the elements of crimes of ICC, the learned prosecutor submitted that ICC will not look into the offences committed before 17th July, 1998 and the elements of crimes defined by ICC has got no retroactive effect so the arguments of the learned counsel for discharge of the accused is liable to be rejected and charges should be framed against the accused person.

Before deciding the matter we are of the view that we should address some legal matters upon which the learned counsel for the defence drew our attention. At a glance, the defence raised the issue of inadequacy of the definition of crimes, the absence of elements of crimes like in ICC's Rome Statute, the thresholds of crimes

requirement of knowledge, provisions of ICCPR and the Rome Statute and the Vienna Convention on the Law of the Treaties.

With regard to definition of crimes mentioned in the Act and elements thereof, we are of the view that the definitions are quite clear and complete without any ambiguity. The Act was drafted in an era when the crimes enumerated therein were fairly known and understood to the world, and were very much part of customary international law. Therefore, we see no reason why should we be trying to find gaps which are not there or try to borrow definitions from fairly recent international Tribunals where the International Crimes Tribunal of Bangladesh do not have any such obligation to do so. However, the Tribunal may take into account jurisprudential developments from other jurisdictions should it feel so required in the interest of Justice.

In regard to thresholds of the crimes against humanity and its nexus to armed conflict and the requirement of knowledge, as stated above, we are of the view that the crimes under the Act are adequate in all aspects and therefore it is not necessary to visit other recent notions developed by the statutes of various International Tribunal. However, the Tribunal may take into account normative developments should it feel so required in the interest of Justice.

Since as said, this Tribunal was created by the Act and considering all the facts and laws relating thereto we narrated our opinion that this Tribunal is very much a domestic Tribunal created under the said Act to try given international crimes.

The political issues as has been raised by the defence counsel specially the state defence counsel to the effect that at the time of liberation war in fact the area which belongs to Bangladesh was a part of Pakistan as East Pakistan and the freedom-fighters were taking part in the liberation war against the Pakistani occupation army

auxiliary forces one can not become an accused, as law authorizes the people to help and assist the government. But this cannot be sustainable because of the fact that International Crimes(Tribunals) Act,1973 was enacted to provide for the detention, prosecution and punishment of person for genocide, crimes against humanity, war crimes and other crimes under International law. We are to see only one thing whether the accused person committed any offence as mentioned above. It is not the question in which side he belonged to but it is the question whether he actually committed those offences and the Tribunal is to consider that part only.

Now we are to consider whether nexus is required in between crimes against humanity and International armed conflict, Section 3(2) of the Act does not show that it requires a link between crimes against humanity and armed conflict Article 6(2) of the Nurembag Charter required a nexus between them but such nexus was not included in 1945 control council Law No. 10. Moreover neither in the statute of SCSL, ICTR, ECCC and the ICC, nexus is required between crimes against humanity and armed conflict. So we are of the view that notion of armed conflict does not form part at the current day customary definition of crimes against humanity and our Act also shows that. Regarding submissions on Article 14 and 15 of the ICCPR, we are of the view that more or less every aspects of Article 14 of ICCPR is present in our Act and Rules. Moreover our constitution also embodies the principles and provisions of the Universal Declaration of Human Rights. In respect Article 15 of ICCPR we also accept that the requirements made therein are available in our Act, and all the offences mentioned in our Act were offences in the normal law of our country prevailing in 1971 as such question of violation of Article 15 ICCPR does not arise at all. As regards the prohibition made in Article 15(1) of ICCPR, we find that Article 15(2) overrides it by making the prohibition of Article 15(1) inapplicable in cases of

As such in international crimes, the prohibition in Article 15(1) is not applicable.

Regarding paragraph 12 of the observation of Human Rights Committee (Macao)(1999), we are of the view that this is mere observation and not at all relevant in the matter of framing charge against the accused in the present case. Moreover only paragraph 12 of observation has been referred. Upon perusing the whole document we are of the view that the facts as stated therein are totally different from the facts of this case and there is no relevancy between them. As regards the Vienna Convention ICCPR, ICC etc, we are of the view that these are the documents where we are parties. And those are directly enforceable in our Courts if their provisions are incorporated in the domestic law by the parliament. If any law is passed in the parliament on the basis of those documents, then those documents through the law of the parliament becomes binding upon this Tribunal. But if the domestic laws are clearly inconsistent with the international obligation then the national courts is to oblige the domestic laws and not the international instruments. The Act itself being clear and passed by a parliament after the war of liberation to try the offences of international crimes committed by the perpetrators and this Tribunal being creation of the said Act, we are of view that the international instruments upon which no legislation has been passed by our parliament are not binding upon this Tribunal. The case of 'Humberto Leal Garcia the Maxican' supports our view. The man was convicted for rape and murder and sentenced to death by the Court and was executed on July 7, 2011 in Huntsville, Texas defying the Vienna Convention which the U.S Senate ratified back in 1969 on the reason that no national law has been passed following that convention. On consideration of the submissions of both the sides, we are of the opinion that this Tribunal is a domestic Tribunal created under the Act

crimes and the international instruments are not binding upon this Tribunal.

The trial starts with framing of charge. If charge is framed against the accused person it does not make him guilty. We have to look on the facts enumerated in the formal charge together with the material submitted and decide as to whether the facts reveals there from are offences enumerated in section 3(2) of the Act and whether the same prima facie indicate complicity of the person with commission of such Acts. The evidence and materials collected during investigation including the statement of witnesses together with the settle jurisprudence prompt us to affirm that the actions of individual or member belonging to group of individuals may come under scrutiny, if we find prima facie that violation of international humanitarian law has occurred as a result of such Acts or conducts which were against the civilian population.

In considering the submissions of the learned counsel for the defence that there is no elements of crimes of the offences mentioned in the Act as such the accused will be deprived of taking proper defence if charge is framed against him. We are to peruse the section 3(2) and the section 16(1) of the Act.

Upon perusing section 3(2) of the Act, we find that if any offence named, is committed by any accused person against any civilian population or persecution is committed on political recial, ethnic or religious grounds, then the accused may be charged for committing offence of crimes against humanity. And that if any offence of section 3(2)(c) (i-v) is committed against any person with intent to destroy in whole or in part a national ethnic racial religious or political group then the offence of genocide is committed and as such we are of the view that the offences as described in section 3(2) are clear distinct and understandable.

Perusing section 16(1) of the Act we find that the particulars, which are to be stated in the charge has been mentioned. We find that section 16(1) (c) shows that

the accused notice of the matter with which he is charged. While framing charge the Tribunal is to look after the matter that in the charge the particulars of the crimes is given which will be reasonably sufficient to give the accused a notice of the matter with which he is charged that means he will understand the allegations brought against him. If it is done, then the requirement of the Act will be fulfilled and there is no chance of any prejudice to the accused person for proper defence. And as such we are of the view that in the Act, the offences are clear, distinct, understandable and the Act allows the accused person to get proper notice of the allegations brought against him to which he can prepare proper defence. Thus the submissions that the Act is not clear and the accused will be prejudiced has got no value in the eye of law and the crimes are also well defined.

The remaining submissions as regards the points i) Original War criminals having been released, the associates cannot be tried ii) retroactivity of the offences and iii) double jeopardy have been considered by us in the last order dated 13.03.2012 and as such we do not want to repeat them.

We have perused the formal charge and other documents and statement of witnesses upon which the prosecution intends to rely upon, and considered the submissions made by both the sides on those materials. We are of the opinion that there is sufficient ground to presume that the accused Salahuddin Qader Chowdhury has committed offences under section 3(2) of the Act. As we find that there is prima facie case against the accused, charges will be framed against him in the following manner.

Authenticated to be True Copy


08.04.12
Bench Officer ICT-BD
Old High Court Building, Dhaka

Mr. A.K.M Zaheer Ahmed, Member of the International Crimes Tribunal hereby charge you Salahuddin Qader Chowdhury, Son of Late Fazlul Qader Chowdhury of Goods Hill, Rahmatgonj, Police Station-Raojan, District-Chittagong and House No.28, Road No. 10/A, Dhanmondhi Residential Area, Dhaka as follows:

Charge No.01: That on 4 or 5 April, 1971 at about 9.p.m. in order to destroy in whole or in part the Hindu community, one of the followers of you named Abdus Sobhan informed you at your residence "Goods Hill" about the meeting of some persons held in the house of Motilal Chowdhury at Ramjaj Mohajan Lane under Chittagong Sadar P.S. You being the eldest son of late Fazlul Quader Chowdhury, the President of Convention Muslim League, as well as a member of a group of individuals, gave instruction and accordingly a group of Pakistani army riding on 2 trucks went to the house of Motilal Chowdhury and abducted unarmed 7 civilian persons namely (1) Arabindu Sarker, (2) Motilal Chowdhury, 3) Arun Chowdhury, 4) Santi Kusum Chowdhury, 5) Jogesh Chandra Dey, all of village Adharmanik, Police Station- Roujan, 6) Paritosh Das of village Comilla, 7) Sunil and took them to your residence "Goods Hill". Out of 7 persons Sunil was chopped by dagger but he was let off considering his tender age and the rest 6 person were inhumanly tortured to death in your presence at your house. The Acts of abduction and torture fall within the purview of crimes against humanity and killing the members of religious group like Hindu community falls within the purview of genocide. You had clear presence and complicity in the aforesaid crimes against humanity and genocide.

Thus, you have committed the offences of crimes against humanity and genocide as stated in section 3(2)(a), 3(2)(c)(i) and 3(2)(h) of the Act.

accomplices accompanied with Pakistani Army went to Maddhaya Gohira Hindu Para under police station- Raojan, District-Chittagong and raided the area belonging to Hindu community and brought the unarmed Hindu civilian people in the courtyard of the house of doctor Makhon Lal Sharma and then in your presence the Pakistani Army opened fire on them indiscriminately pursuant to pre-arranged plan. As a result 1) Poncha Bala Sharma, 2) Sunil Sharma, 3) Joti Lal Sharma, 4) and Dulal Sharma were killed at the spot and 5) Dr. Makhon Lal Sharma died after 3/4 days. Joyonta Kumar Sharma was seriously injured and was alive for some years as handicapped person. These acts of murder and injury were committed in order to destroy the members of Hindu religious group in whole or in part which is genocide.

Thus you have committed the offence of genocide as stated in section 3(2)(c)(i) and 3(2)(c)(ii) of the Act.

Charge No.03:- That on 13th April, 1971 at about 9.30 a.m. to 10.00 a.m. after killing Hindus at Maddhaya Gohira you led the Pakistani Army to Kundeshwari Owsadalay of Gohira and raided there and entered into the household of Sree Nuton Chandra Singh; at that time he was performing his prayer in the temple, he was drug out by you from his prayer room. You told the Pakistani Army that you had instruction from your father to kill him and after hearing that the army opened fire on him and he fell down after receiving bullet injury. While Mr. Singh was trumbling, at that time you again shot him to confirm his death and after that you along with the Pakistani Army left the place of occurrence. This killing of Nuton Chandra Singh was committed against an unarmed civilian population which is murder as crimes against humanity.

Thus you have committed the offence of crimes against humanity as stated in section 3(2)(a) of the Act.

Hindus of Maddhya Gohira Hindu Para, in order to destroy member of Hindu religious group you led a team of your accomplices along with Pakistani Army and raided the area of Jogot Mollo Para belonging to Hindu community. Earlier in the morning two of your accomplices went there and told the minority Hindu people to attend in a peace meeting and putting belief in them, those people assembled there in the courtyard of Kiron Bikash Chowdhury and at that time those two accomplices of you brought you and your associates and also the Pakistani Army to that place and in your presence one of the Military men used filthy languages upon them and opened fire to the innocent village people in your presence resulting death of 32 Hindu people. Those killed were (1) Tejendra Lal Nandi, (2) Samir Kanti Chowdhury, (3) Ashok Chowdhury, (4) Sitangshu Bimol Chowdhury, (5) Premangshu Bimol Chowdhury, (6) Kiron Bikash Chowdhury, (7) Surendra Bijoy Chowdhury, (8) Charu Bala Chowdhurani, (9) Nero Bala Chowdhury, (10) Provati Chowdhury, (11) Raj Lakshmi Chowdhurani, (12) Kusum Bala Chowdhurani, (13) Jotindra Lal Sarkar, (14) Hirendra Lal Sarkar, (15) Provati Sarkar, (16) Debendra Lal Chowdhury, (17) Rajendra Lal Chowdhury, (18) Ajit Kumar Chowdhury, (19) Poritosh Chowdhury, (20) Bhabotosh Chowdhury, (21) Gopal Chowdhury, (22) Rani Bala Chowdhurani, (23) Monju Chowdhury, (24) Jheenu Chowdhury, (25) Runu Chowdhury, (26) Debu Chowdhury, (27) Shapon Chowdhury, (28) Fanibhushan Chowdhury, (29) Modhushudan Chowdhury, (30) Bipin Chowdhury, (31) Kamini Rudhura, (32) Annanta Bala Paul. Besides, Amalendra Bikash Chowdhury, Jotsna Bala Chowdhury and Chobi Rani Das were seriously injured. The houses were looted and destroyed by fire. They had to deport to India as refugee to take shelter there. This act was committed with intent to destroy in whole or in part members of Hindu religious group which is genocide. The act of looting and destroying houses by fire is

commit the said offence and also you had complicity in that offence and you failed to defend the commission of such offence.

Thus you have committed the offence of genocide as stated in section 3(2)(c)(i), 3(2)(c)(ii), 3(2)(g) and 3(2)(h) of the Act and also persecution on religious ground and deportation as crimes against humanity as stated in section 3(2)(a) of the Act.

Charge No.05:- That on 13th April 1971 at about 1.00 P.M., you and your accomplices led the Pakistani army to attack Bonic para belonging to Hindus of village Sultanpur in the police station Raujan. Before that you through your followers chanted slogans and told the people of Bonic para not to leave their houses but the local people and the female members and children went to defferent places. As a result your accomplices and the Pakistani army under the leadership of you and your father entered Bonic para and opened fire upon the unarmed civilian Hindu people pursuant to pre-arranged plan and thereby killed (1) Napal Chandra Dhar, (2) Monindra Lal Dhar, (3) Upendro Lal Dhar and (4) Onil Boron Dhar. Later on the houses were put on fire and you left the place. Later on Sonaton Biswas and his family who were hiding at that time left the place and went to India as refugee. All these actions were done with intent to destroy in whole or in part the members of Hindu religious group which amounts to genocide and the act of destruction of houses by fire is considered as crime of persecution as crimes against humanity.

Thus you have committed the offence of genocide as mentioned in section 3(2)(c)(i) and persecution as crimes against humanity under section 3(2)(a) of the Act.

Charge No.06:- That on 13th April 1971 at about 4.00PM to 5.00PM you along with some of your accomplices led the Pakistani army and attacked Unsattar para under police station Rowjan, being Hindu populated area and brought the local Hindu

attend a peace meeting and after that in your presence, they brush fired upon them indiscriminately pursuant to pre-arranged plan and thereby killed 1) Chandra kumer paul, 2) Tara charan paul, 3) Babul mali, 4) Gopal Mali, 5) Shantosh Mali, 6) Balaram Mali, 7) Avimonnu paul, 8) Pakhi Bala paul, 9) Beni Madhab paul, 10) Dhirandra paul, 11) Biroja Bala Paul, 12) Hemangshu Paul, 13) Shatish Chandra, 14) Shuprio Paul, 15) Durga Chandra Paul, 16) Shanti Bala Paul, 17) Nikunja Behari Paul, 18) Balaram Paul, 19) Sreeram Paul, 20) Fanindra Paul, 21) Tarapada Paul, 22) Pulin Behari Paul, 23) Nikunja Paul, 24) Hemanta Kumar Paul, 25) Shapon Kumar Sen, 26) Dhirendra Lal Chowdhury, 27) Nirmol Chowdhury, 28) Madhushudhan Chowdhury, 29) Santipada Chowdhury, 30) Nironjon Chowdhury, 31) Monindra Chowdhury, 32) Josna Bala Chowdhury, 33) Pritikana Chowdhury, 34) Monikuntala Chowdhury, 35) Krishna Rani Chowdhury, 36), Sree Pati Chowdhury, 37) Milon Dey, 38) Upendra Lal Gosh, 39) Monoranjon Gosh, 40) Babul Chowdhury, 41) Krishna Chowdhury, 42) Ranjit Mohajan, 43) Jogesh Mohajon, 44) Khetran Mohan Rudra, 45) Upendran Chandra Rudra, 46) Panjit Kumar Rudra, 47) Nakul Paul, 48) Protima Das, 49) Junu Gosh and 50) Badal Chowdhury and unknown 19/20 unarmed civilian persons. From the said occurrence Januti Bala Paul got gun shot injuries in her waist and the general Hindu people in order to protect their life took shelter in India as refugee. This act was committed with intent to destroy in whole or in part by killing members of Hindu religious group which amounts to genocide by killing and causing serious bodily harm to members of Hindu religious group and deportation by forcing the people to took shelter in foreign state India as refugee which is deportation as crimes against humanity.

Thus you have committed offence of genocide under section 3(2)(c)(i), 3(2)(c)(ii) and deportation as crimes against humanity under section 3(2)(a) of the Act.

Pakistani Army entered into the house of Satish Chandra Palit of Rowjan Powrasava. Satish Chandra Palit at that time came out of the house and while was talking with the Pakistani Army you told the Army personnel that he is a dangerous man and should be killed, hearing this the Pakistani Army asked Palit to go inside the house and while he was about to enter into the house, the Pakistani Army shot him to death and burnt the house along with the dead body. You then left the place along with the Pakistani Army. After that the members of the family of Satish Chandra Palit to protect their lives went to India as refugee and took shelter there. You had complicity in the murder of Satish as well as burning his house and his dead body which is offence of crimes against humanity and also in the matter of deportation of the family members of Satish to India as refugee which is also crimes against humanity.

Thus you have committed offence of crimes against humanity under section 3(2) (a) and 3(2)(h) of the Act.

Charge No.08:- That on 17th April, 1971 at about 11.00 a.m., the founder of Chittagong Awami League Sheikh Mozaffar Ahmed along with his family members while was coming from Roujan to Chittagong town, reached Khagrachory, Rangamati corner of 3 roads and on the showing of you the army persons present there surrounded the private car of him and brought down him and his son Sheikh Alamgir from the car and took them to the near by army camp. The relatives of them then went to your father Fazlul Qader Chowdhury and requested him to arrange for release

Chowdhury replied that he will look into the matter but the matter was solely at your disposal. Several times Fazlul Qader Chowdhury was contacted but similar reply he gave but the said victims did not return as they were subsequently killed. So it is clear that you had direct complicity in abduction and murder as crimes against humanity by killing the said 2 (two) persons.

Thus you have committed an offence of section 3(2)(a) and 3(2)(h) of the Act.

Charge No.09:- In the middle of April, 1971 Pakistani Army came with big trucks to Boalkhali and you in a jeep also came to the Razakar camp of Boalkhali C.O. office at the same time and the said two trucks while were going to Kodur Khali caught hold of Santi Deb of Munsirhat and killed him at Bonic para, northern side of the police station while you were staying in the near by Razakar camp. At that time the Pakistani Army and Razakars looted the house of Ram Babu of Bonic para and Hindu para of Kodurkhali and put fire in the houses and destroyed them resulting deportation of the Hindus from the area and they took shelter in India as refugee you had led the whole operation sitting in the Boalkhali C.O office and also you abetted the said offences.

Thus you have committed the offence of genocide as killing members of a religious group under section 3(2)(c)(i), persecution on religious ground as crimes against humanity and deportation as crimes against humanity under section 3(2)(a) and abetment under section 3(2)(g) of the Act.

the house of Manik Dhar of village Dabua under Rowjan police station and looted one jeep and rice machine and put fire in the house of local chairman Shadon Dhar.

Thus you have committed an offence of persecution as crimes against humanity under section 3(2)(a) of the Act.

Charge No.11:- On 20th April, 1971 the Pakistani Army and the Razakars being supporters of Muslim league on the direction of you and your father Fazlul Qader Chowdhury jointly made arms attack in Sakhapura village being Hindu populated area under Boalkhali police station and indiscriminately fired and used bayonet in order to kill the people who had political and religious difference with you and they took shelter in the near by jungle and paddy field and were killed. Later on it was found that names of 76 deceased persons could be identified who are 1) Foez Ahmed, 2) Jalal Ahmed, 3) Habildar Sekandar Ali, 4) Amir Hamja, 5) Abdul Hashim, 6) Abdul Matin, 7) Habibur Rahman, 8) Ahammad Safa, 9) Arobindo Roy, 10) Nikingo Roy, 11) Derandra lal dey, 12) Fanindra lal shil, 13) Nikunja Shil, 14) Pranhari shil, 15) Nogendra Lal Shil, 16) Dibesh Chowdhury, 17) Gouranga Prashad Chowdhury, 18) Bishu Chowdhury, 19) Gouranga Nondi 20) Topan Nondi 21) Doctor Modushudon Chowdhury, 22) Ragu Nondon Chowdhury, 23) Neronjon Chowdhury, 24) Shukhendra Bikash Nag, 25) Rabindra Lal Chowdhury, 26) Upendra Lal Chowdhury, 27) Neronjon Chowdhury, 28) Bishsheswar Acharjo, 29) Doyal Hori Acharjo, 30) Kamini Shuklo Das, 31) Jogandra Lal Shuklo Das, 32) Debendra Sharma,

36) Raton Chowdhury, 37) Priotosh Chowdhury, 38) Chandon Chowdhury, 39) Nironjon Chowdhury, 40) Horiranjon Chowdhury, 41) Dilip Chowdhury, 42) Milon Biswas, 43) Shubol Biswas, 44) Brojendra Lal Chowdhury, 45) Gopal Chowdhury, 46) Derendra Chowdhury, 47) Ramoni Chowdhury, 48) Gournago Chowdhury, 49) Dayal Nath, 50) Rakhal Shingho, 51) Monmohan Chakraborti, 52) Shashanko Gosh, 53) Shukhendru Biswas Chowdhury, 54) Derandra Lal Chowdhury, 55) Borda Charan Chowdhury, 56) Monindra Lal Khastogir, 57) Bonkim Chandra Sen, 58) Shadon Gosh, 59) Gourango Chowdhury, 60) Dononjoy koibarto, 61) Nolini Koibarto, 62) Natun Koibarti, 63) Shumit Ranjon Boruya, 64) Narayan Chowdhury, 65) Jotindra Lal Das, 66) Monindra Lal Das, 67) Romesh Chowdhury, 68) Doctor Shukhendru Bikash Datta, 69) Pradip Kanti Das, 70) Roy Mohan Chowdhury, 71) Lal Mohan Chowdhury, 72) Haripada Chowdhury, 73) Amot Chowdhury, 74) Amullya Chowdhury, 75) Doctor Purno Charan, 76) Modon Kumer Das and many others. As a result of this killing, the remaining people in order to protect their lives went to different places and many of them deported to India as refugee. Thus you have committed an offence of genocide as killing members of a political and religious group under section 3(2)(c)(i) and deportation being crimes against humanity under section 3(2)(a) of the Act.

Charge No.12:- That on 5th May, 1971 at about 10.30 a.m. to 11.00 a.m. you led Pakistani Army in the village Jagot Mollo Para under police station Rowjan. In your

assistance of Nazma Khatun, a relative of you but she informed that you have demanded Tk. 1,000/- for his release which could not be paid. She also informed that Md. Hanif was being tortured by you. Ultimately Hanif did not return and was killed.

Thus you have committed an offence of abduction, confinement, torture and murder of said Hanif which is crimes against humanity under section 3(2)(a) of the Act.

Charge No.15:- In the middle of May, 1971 Sheikh Maimun Ali Chowdhury while was in the house of captain Boktiar at chandonpur and gossiping with his friends at about 3.00 to 3.30 p.m. you along with Pakistani Army and some unknown persons in civilian dress came in 2(two) trucks and surrounded the said house and arrested everybody present there. You then wanted to know who is Babu and as Sheikh Maimun Ali Chowdhury's nick name was Babu, he was taken to the near by car and was taken to Goods Hill torture centre which was under the control of you and on your and your father's direction he was undressed and hands were tightened and he was severely beaten resulting his unconsciousness. Getting this news, his freinds contacted the leaders of Razakars and Peace committee and he was released.

Thus you have committed an offence of abduction, confinement and torture as crimes against humanity under section 3(2)(a) of the Act.

Charge No.16:- That on 7th June, 1971 Omar Faruk was kidnapped by Razakar Maksudur Rahman, you and your father Fazlul Qader Chowdhury with the help of Pakistani Army from Jamal Khan Road and was taken to Goods Hill torture centre

order.

Thus you have committed an offence of abduction, confinement, torture and murder as crimes against humanity under section 3(2)(a) of the Act.

Charge No.17:- On 5th July, 1971 at about 7.00/7.30 p.m. you along with 2/3 accomplices and members of Pakistani Army abducted Nizamuddin Ahmed, Shiraj and Wahid @ Junu Pagla from the house of Jahangir Alam Chowdhury of Hajari Lane, Kotowali Police Station and took them to Goods Hill torture centre under your control and they were taken to the drawing room of that house where your father was sitting. They were abused and on his direction, you and your accomplices started beating them with robber clotted cane and then tortured them for 2/3 hours and then kept them in the garage of the house and they were also tortured there and interrogated. They were kept there up to 8.00 to 9.00 p.m. and then they were taken to Chittagong stadium. Where they found more 10/12 persons. Victim Wahid @ Junu was released at one time and the remaining Nazimuddin and Shiraj were kept in cantonment and interrogated. They were kept till independence.

Thus you have committed an offence of abduction, confinement and torture as crimes against humanity under section 3(2)(a) of the Act.

Charge No.18:- In the 3rd week of July, 1971 on one morning at about 5.30 a.m. a close associate of the father of you and Muslim League leader and chairman of Shikarpur Union Porishad late Shamsu Mia with 3(three) accomplices went to the

Chandgoan and kidnapped Md. Salahuddin and took him to the Goods Hill torture centre by a car of Pakistan Army and in presence of you he was brought down from the car and was taken to the first floor of the garage of the adjacent house by Pakistan Army and was interrogated and tortured and he became senseless and he was thrown out by the wooden shelf and fell in front of you and you asked in front of the Pakistani Military that no water came out from his eyes what type of torture has been done and then you tortured him and then he was kept in a room where in other tortured people were also there and one of them told that he will be taken out soon for murder and then you told that he will now get the result. Then you asked the Pakistani Army to take him out and kill him and he was taken out. Later, on giving bond, he was released.

Thus you have committed an offence of confinement, abduction and torture as crimes against humanity under section 3(2)(a) of the Act.

Charge No.19:- That on 27 July, 1971 at about 8.30 p.m. the Pakistani Army arrested Nur Mohammad and Nur Alam from Mia Bari of Liakot Ali road under police station Hathajari and took them to Goods Hill torture centre after fastening their body with rope and got information as regards their another brother Mahabub Alam by torturing them and on that date at about 10.00 p.m. took the said Mahbub Alam from the tea stall of Saheb Mia to Goods Hill and tortured all the 3(three) brothers. You took Tk. 10,000 (ten thousand) and released Nur Mohammad and Nur Alam from that torture

is sick and can not go by walking. Later on Nur Mohammad came with a car and got information that his brother has been killed.

Thus you have committed an offence of murder, abduction, confinement and torture as crimes against humanity under section 3(2)(a) of the Act.

Charge No.20:- That on 27/28 July, 1971 at about 3/4 p.m. the Razakars arrested Aklash Mia from in front of shop of Khoka of village Kadur Khali under police station Boalkhali and took him to Boalkhali C.O. office Razakar camp from there and he was taken to Goods Hill torture centre under control of you and he was tortured to death from there.

Thus you have committed an offence of confinement, torture and murder as crimes against humanity under section 3(2)(a) of the Act.

Charge No.21:- In the first week of August, 1971 Fazlul Haque Chowdhury the union parishad chairman of Binajuri under Rowjan police station was arrested by you and Pakistan Army and took him to the circuit house torture centre and he was tortured and then he was taken to the Goods Hill torture centre and tortured there and at one point after 3/4 days of torture, he was handed over to Rowjan police station and later on he was released and he became crippled and died on 10 September, 1987. During his life time he told many people regarding the occurrence and also his witnessing of torture and murder at Goods Hill torture centre.

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J. Alam
08.09.17
Bench Office

crimes against humanity under section 3(2)(a) of the Act.

Charge No.22:- That in the 2nd week of August, 1971 at about 9.00 p.m. you and your accomplices of Al-Shams Bahini abducted Md. Nuru Chowdhury from the house of Abdul Hakim Chowdhury of Sadar Ghat, police station Double Moring and took him to Goods Hill and he was tortured there and he lost his concious. On the next date he was taken to Chittagong Commerce College centre under your leadership to appear in the H.S.C examination but the college authority denied to allow him to sit in the examination as being injured and you admitted him into chittagong medical college hospital for treatment. You collected Tk. 6,500/- from the father of Nur Alam Chowdhury and then released him.

Thus you have committed an offence of abduction, confinement and torture as crimes against humanity under section 3(2)(a) of the Act.

Charge No.23:- That on 2nd September, 1971 at about 6.15 to 6.30 p.m., the accomplices of you tortured one Hindu employee of M. Salimullah to which M. Salimullah objected and he was threatened for that then they came with a team of Sindhi Police and took M Salimullah to the Goods Hill torture centre under your control and tortured him. After torturing for the whole night, he was released on the next morning.

Thus, you have committed an offence of abduction, confinement and torture as crimes against humanity as mentioned in section 3(2)(a) of the Act.

3(2) of the Act, punishable under section 20(2) of the Act and within the cognizance of this Tribunal. And we hereby direct you to be tried by this Tribunal on the said charges. You have heard and understood the aforesaid charges.

Q Are you guilty or not-guilty ?

Ans. আমি নির্দোষ

The charges are read over and explained to the accused on dock who pleaded not guilty and claimed to be tried.

To 29.04.2012 for opening statement of prosecution and examination of prosecution witnesses. The trial shall be continuing on every working days until further order. The defence counsel is also directed to submit a list of witnesses if any along with four sets of documents thereof, which the defence intends to rely upon by the date fixed.

Authenticated to be True Copy

J. Alam
08.04.12

Bench Officer, ICT-BD
Old High Court Building, Dhaka