

THE INTERNATIONAL CRIMES TRIBUNAL OBSERVER

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Asian International Justice Initiative (AIJI), a project of East-West Center and UC Berkeley War Crimes Studies Center*

I. OVERVIEW

This week proceedings in Tribunal 1 were dominated by the presentation of the Defense's Closing Arguments in the case of *Gholam Azam*. In the *Salauddin Qader Chowdhury* case the Tribunal heard testimony from Prosecution witness 21, a former freedom fighter. Additionally, the Prosecution presented the Formal Charge against Mubarak Hossain, and the Tribunal took official cognizance of the charges.

TRIBUNAL 1: CASES IN SESSION THIS WEEK

- *GHOLAM AZAM*
- *SALAUDDIN QADER CHOWDHURY*
- *MUBARAK HOSSAIN*

TRIBUNAL 2: CASES IN SESSION THIS WEEK

- *KAMARUZZAMAN*
- *ABDUL ALIM*
- *CONTEMPT PROCEEDINGS*

In Tribunal 2 the court heard testimony from three Prosecution witnesses in the *Mujahid* case, one Prosecution witness in the *Abdul Alim* case, and three Defense witnesses in the *Kamaruzzaman* case. Additionally, the Tribunal dealt

with ongoing contempt proceedings against Jamaat leaders, MK the Daily Shongram, and MK Anwar.

II. TRIBUNAL 1: DETAILED WEEKLY CASE SUMMARIES

CHIEF PROSECUTOR VS. GHOLAM AZAM

Defense Closing Arguments

The Defense was scheduled to begin its Closing Arguments on Sunday. Defense had submitted an application seeking a week-long adjournment, due to a death in the family

of a senior Defense counsel, however the Tribunal denied the motion, and required the Defense to begin summing up their case as scheduled on Sunday, 10 March.

The Defense began with general arguments undermining the reliability of the Investigating Officer's findings and the foundational elements of the case, including the substance of the Formal Charge. They noted that during cross-examination the Investigating Officer had stated that he had produced evidence regarding the killing of Shiru Miah, but admitted that he did not produce any evidence regarding any of the other counts (the Charges were not specified). The Defense argued that this admission showed that no evidence had been submitted in support of 61 counts against Gholam Azam.

Procedural Issues

The Defense lodged several complaints about procedural defects in the case. They argued that Gholam Azam had not been allowed to exercise his right under section 17(1) of the ICT Act 1973 to respond to and explain the charges against him. Additionally, the Defense submitted that the Prosecution failed to hand over key documents that were used as the basis for the formal complaint against the Accused. The Defense registered their disagreement with Prosecution position that section 19(1) and 19(4) of the ICT Act of 1973 allows them to produce additional evidence at any stage of the proceedings. Furthermore, Gholam Azam's counsel argued that the Defense had not been allowed to cross-examine the witnesses about at least 6 Prosecution documents.

Testimony and Evidence of the Investigating Officer

The Defense addressed the contents of documents exhibited by the Prosecution as the basis of the Complaint. They noted that, in the report submitted as Exhibit-519, Prime Minister Sheikh Hasina had claimed that she had evidence against Gholam Azam, but in fact at trial, no such evidence was produced. Additionally, during cross-examination, the Investigation Officer admitted that the Exhibit-519 report did not include the name of the reporter, and that he did not attempt to identify the reporter. The Investigation Officer also admitted that the seizure list witness (a witness attesting to the authenticity of the document), who had been called to give testimony regarding this report, did not appear before the Tribunal. The Defense alleged that such admissions showed that the Investigating Officer did not investigate the case properly.

Under Rule 18 of the Rules of Procedure, the Chief Prosecutor or authorized Prosecutor is required to prepare the Formal Charge on the basis of the papers, documents and other evidence collected and submitted by the Investigating Officer. However, the Defense argued that the Investigating Officer admitted during testimony that he does not know what was in the Formal Charge, showing that its basis was not the investigation findings. The Defense also submitted that Rule 20 requires that the Formal Charge contain the names of witnesses to be called, and the date, time and place of occurrence for each alleged charge. Mizanul Islam argued that the Formal Charge did not conform to this rule.

Charge 5 and the Testimony of Prosecution Witnesses

Following procedural matters, the Defense shifted to their submission about Charge 5, and addressed the testimony of Prosecution witnesses 1, 2, 3, 13 and 16.

Prosecution Witness 1

The Defense argued that Gholam Azam was not involved in Operation Search Light, which was carried out by the Pakistani army on 25 March 1971. Defense counsel read out the testimony of Prosecution witness 1, Muntasir Mamun, who the Prosecution presented as an “expert” and “policy” witness because of his extensive research on the Liberation War. The Defense attacked Mamun’s credibility, noting that on 213 occasions the witness was unable to answer the Defense’s questions regarding the Liberation War. Additionally, the Defense sought to undermine Mamun’s credibility, noting that he had admitted that he was affiliated with the Chhatra Union and was a student of Dhaka University, but could not state when Dhaka University Students Union had held elections before the Liberation War.

The Defense also pointed out that Mamun admitted he could not produce any documentary evidence to show that Gholam Azam established the East Pakistan Restoration Committee and could not recall the number of members allegedly in the committee. During his testimony, Mamun referred to a document allegedly from General Niazi in which Niazi said that the Pakistani authority should make Bengalis into a minority. However, the Defense pointed out that Mamun admitted the document was type-written and did not contain the signature of Niazi, making its authenticity dubious.

Mizanul Islam submitted that Mamun was unable to say whether Gholam Azam met with President Yeahya and Bhutto before Operation Search Light was carried out. Furthermore Mamun could not say whether he found any information regarding this issue during his research. He was unable to say when he had heard about Operation Search Light, and despite claiming that he talked with General Raw Farman Ali about Operation Search Light in detail in an interview, he could not say anything about the contents of the interview without looking at a transcript. The Defense also noted that Mamun was unable to say whether any civilians were involved with Operation Search Light. Additionally, the witness was unable to say how many members there were in the Peace Committee, nor could he remember any of their names. This cast doubt on his claim that Gholam Azam was a member of the committee. Similarly, regarding the first meeting of executive committee of Peace Committee, Mamun had testified that he couldn’t name who was present at that meeting, yet he confirmed that Gholam Azam was present there. Mamun further said that since Gholam was the first member of the Executive Committee no meeting could take place without him. The Defense questioned the certainty of such statements.

The Defense argued that Prosecution witness 1 had been unable to assert that Gholam Azam had command or control over any force committing atrocities during the war. He admitted that he had no proof that the Union Council had any power to issue directions to

the Commanding Officer of the Army. Additionally, the Defense argued that there was no gazette notification, circular, or order from government officials or forces authorizing or declaring the Peace Committee to be an auxiliary force. Mizanul Islam submitted that the first duty of the Prosecution was to prove that the Peace Committee was an armed force, before considering them as auxiliary forces. The witness admitted that there was no order or directive issued by the Pakistani Military placing Jamaat-e-Islami, Muslim League, Pakistani Democratic Party and Nezami Islam Party under their control, though he claimed that no such directive was necessary.

Finally the Defense noted that Prosecution witnesses 1 and 3 had stated that the Razakars, Al-Badr, and Al-Shams were comprised of students and young members of Jamaat-e-Islami. However, Mizanul Islam submitted that the witnesses could not identify any specific persons and their statements were based on news published in newspapers. The Defense argued that an individual could not be convicted solely based on news reports, particularly given the imposition of censorship on newspapers. The witness admitted that censorship was imposed on all newspapers.

Prosecution Witness 2

The Defense then addressed the testimony of Prosecution witness 2, Mahbub Uddin. Uddin testified that he was responsible for Sub-Sector A (Alpha Company) of Sector No 8. The Defense noted that Uddin had strong political affiliations that undermine the credibility of his testimony.

The Defense also pointed to Uddin's testimony as support for their argument that Gholam Azam did not have command responsibility over the military government or over auxiliary forces. During cross-examination Uddin testified that the Operation Search Light was planned by the Pakistani military government, and carried out as an attack upon the civilian population under the control of Pakistan military government. Uddin further admitted that no political party had any control over the then military government of Pakistan. The witness testified that General AK Niazi was under the direct control of the Pakistan President Yahya Khan. Furthermore, Uddin agreed that the Liberation War was a direct war between the Pakistani occupation forces and freedom fighters, and later on between the Pakistan occupation forces and freedom fighters and allied forces. The Defense suggested that Uddin did not tell the Investigating Officer that Gholam Azam was the leader of Jamaat-e-Islami, and that Jamaat-e-Islami as the largest political party and its students wing Islami Chhatra Shangha led the commission of crimes against humanity, implying that this was added by the Prosecution. Uddin admitted that he did not know whether the salary of members of Razakars, Al-Badr, Al-Shams and Peace Committee was paid and controlled by Gholam Azam or by someone else.

Prosecution Witness 3: Sultana Kamal

The Defense read out the examination and cross-examination of Prosecution witness 3, Sultana Kamal. Kamal testified that Gholam Azam regularly met with General Tikka Khan and leaders of the Pakistani occupying forces to discuss strategy for maintaining

the unity of Pakistan. Kamal also said that the highest levels of the Pakistani army praised Gholam Azam for his role in maintaining the unity of Pakistan. She also said that Gholam Azam repeatedly stated that he is ready to do anything and everything for the unity of Pakistan.

Kamal testified that she had heard that Al-Badr planned to attack her mother Sufia Aktar, but that her mother did not tell her any names of the planners. The Defense noted that Kamal admitted that while she was in Dhaka she did not see any members of Al-Badr but nonetheless described them as a killer force. She had further testified that she heard that Al-Badr members always kept their faces covered during operations. She admitted that she could not identify any members of Al-Badr by their name or face. The Defense argued that Kamal's testimony was based on assumption alone, and therefore does not meet the burden of proof.

The Defense additionally noted that Kamal had no documentary evidence regarding Gholam Azam's approval of the killing of the intellectual community at the end of the war. Kamal also admitted that Gholam Azam was not accused in any of the cases under Sheikh Mujib Rahman's government following the war. The Defense also argued that Kamal's statement that documents relating to the planning of the massacre of the intellectual community were obtained from the house of a Pakistani minister supported the Defense case by showing the control and responsibility of the Pakistani government.

The Defense noted that the original informer is alive, and asked why he and the victim's family members were not called to testify before the Tribunal. Similarly the Defense asked why the Prosecution did not produce Monoara Begum, Nurul Islam, Helal Uddin and Abdur Razzak Khan to testify.

Section 19(2) Witness Statement

The Investigating Officer testified that he recorded the out-of-court statement of Mohsin Ali Khan on 3 August 2010 (exhibit-523), and the Tribunal admitted the statement as evidence under section 19(2) of the ICT Act of 1973. Section 19(2) states that a Tribunal may receive in evidence any statement recorded by a Magistrate or an Investigation Officer, if the statement was made by any person who at the time of trial is dead, or whose attendance cannot be procured without an amount of delay or expense which the Tribunal considers unreasonable. The Defense argued that Mohsin Ali is neither dead nor unavailable, and should have been called before the Tribunal. Additionally the Defense submitted that the out-of-court statement contradicts the statement given by Prosecution witness 13.

The Defense questioned why Prosecution witness-13 never filed a case, when other victims did. The Defense claimed that the witness did not produce any evidence supporting her claim that the accused was involved in the killing of her husband and son.

Prosecution Witness 14 - Ahmed Imtiaz Bulbul

Mizanul Islam submitted that Prosecution Witness 14 described the alleged killing but did not directly connect Gholam Azam to the killing. He further submitted that Prosecution witness 14 could not connect the accused with the killing.

Irrelevant documents

The Defense argued that the Prosecution had presented numerous documents and items of evidence that were irrelevant to the case because they pertained to already admitted facts. However, they argued that some of these documents incorrectly portray historical events in Bangladesh

CHIEF PROSECUTOR VS. SALAUDDIN QADER CHOWDHURY

Prosecution Examination-in-Chief of Prosecution Witness 21

Prosecution witness 21, Abul Bashor, testified that he and other freedom fighters attacked the Razakar camp located at the Gomdondi Mass Quarter on 28 August 1971 at night. He said that, during the fight, their commanders Fazlul and Rezaul Karim Baby were killed, and Abdul Wazed was injured. At one stage they had to retreat because a Pakistani patrol train was approaching them. The following day at about 9 or 10 am they heard that Salauddin Quader Chowdhury and the Pakistani army had captured Wazed, and spat in his face before taking him to Goods Hill by a motor vehicle. The witness said that Wazed was never heard from, and that there was no trace of the corpses of the other two missing freedom fighters.

Bashor also testified that he heard after the Liberation War from the Razakar commander Zaker that Wazed had been interrogated about the freedom fighters, tortured, and subsequently killed. The witness did not make it clear who killed Wazed.

Bashar testified that Razakars also held a freedom fighter called Akhlas, and took him to the Goods Hill. Akhlas's father was a member of Muslim League, and went to Goods Hill after three days with other Muslim League activists to recover the corpse of Akhlas. The witness identified Salauddin Quader Chowdhury in the dock.

INVESTIGATION OF MUBARAK HOSSAIN

Cognizance of Charges

The Tribunal took cognizance of the Formal Charge against Mubarak Hossain, and ordered him to be detained in jail, rejecting the Defense request for an extension of bail. The Tribunal fixed 4 April 2013 for the next date of hearing.

III. TRIBUNAL 2: DETAILED WEEKLY CASE SUMMARIES

CHIEF PROSECUTOR VS. ABDUL ALIM

Prosecution Witness 12: Prosecution Examination-in-Chief

The Prosecution conducted its examination-in-chief of Prosecution witness 12, Laily Begum, the daughter of victim Doctor Abul Kashem. The witness testified that she had four sons and two daughters in 1971 when she was 23 years old. She stated that her father, Abul Kashem, organized the Jaipurhat Shongram Parishad after being inspired by the speech of Sheikh Mujibur Rahman on 7 March 1971. On 20 April 1971, she said her father went to her husband Mokbul Hossain's house in Jamalpur village of Jaipur, and told her that people of the Shongram Parishad went to Abdul Alim's house to catch him, but that Alim managed to flee from the back door.

The witness testified that many Rajakars, Al-Badr, and Pakistani Army members surrounded their house early the morning of 24 July 1971. They knocked at her father's door, and her brother Nazrul Islam went out to speak to them. Four army, Al-Badr, and Rajakar members entered and told her father that he had been summoned by Abdul Alim. When her father refused to go with them they dragged him out by his hair. The witness said her niece begged them not to take her grandfather, but they did not listen. The witness testified that she and her brother followed the group who took her father.

Laily Begum testified that Abul Kashem was kept in Teghor Bridge Rajakar camp before being taken, blindfolded and tied up, to Jaipurhat Rail Station. The next morning at around 8 a.m., she said he was taken to Shownla Bajlal *godi ghor* (sitting room) to be presented before the Peace Committee chairman, Abdul Alim. The witness testified that she returned to her house and later went back to Shownla Bajlal along with her other family members.

The following day at around 3 p.m., one Rajakar, Atiqullah Bihari, came to their house and said that if Major Aksar was given 5,000 Taka, he would let her father go. Accordingly, they gave him the money to secure her father's release. A while later, Atiq Bihari came back and informed them that Abul Kashem would be taken to Kuthibari to be shot to death, as per the command of their "boss" Abdul Alim. After a bit more time, one Mr Shiraj, who was the cook in Peace Committee's camp, came and said that her father's eyes were gouged out and teeth broken before he was brutally killed. Laily Begum testified that this took place on 25 July 1971 in Kuthibari.

The witness testified that her father's body was exhumed from his grave in Kuthibari in November 1972, and was brought to her family's home in Debipur for re-burial. The witness said that she saw many bullet shots on the chest of her father's body. The witness identified the Accused in Court, and declared that she wants justice.

Defense Cross-Examination

The Defense counsel cross-examined the witness, asking whether she knew that her brother filed a case in 1972 complaining about their father's killing. The witness at first

replied “yes.” However, Prosecution counsel Rana Das Gupta immediately intervened and asked her to listen to the question carefully before replying. The witness then changed her answer and said that she did not know about any such case being filed by her brother. The Defense counsel strongly objected to the intervention, and the Court admonished the Prosecutor not to interfere. However, the witness’ latter statement was the one recorded in the testimonial record.

The Defense asked whether the witness’s son is currently in jail serving a sentence of life imprisonment. The witness became upset, and said that her son was serving 10 years in prison, but that he had nothing to do with her testimony in the instant case.

The cross-examination was completed on 13 March 2013, but due to unforeseen circumstances our researcher was unable to attend Court that day and record the details of the testimony.

CHIEF PROSECUTOR VS. KAMARUZZAMAN

Prosecution Cross-Examination of Defense Witness 1

Defense witness 1, Md Arshed Ali, was cross-examined by the Prosecution. During his examination-in-chief, the witness testified about the brutal mass killing by the Pakistani Army in Shohagpur, Benupara and Kakorkandi region of Sherpur on Tuesday, the 10th Srabon of the Bangla calendar, during Bangladesh’s Liberation War of 1971. He described the situation that was persisting in the area at that point in time, including the involvement of local influential people in assisting the Pakistani Army. He further described the conditions of transportation, the position of roads, and communication to and from Sherpur Bidhoba Polli. He referred to books describing the mass killing in that area. The witness also said that he does not know the accused Kamaruzzaman, and had never seen him.

In his main testimony, the witness referred to the book “Golpey golpey Itihash Nalita Baari,” published in February 2011, and the book, “Shohagpur er Bidhoba Konnnara 1971,” published in February 2012. The Prosecution suggested that these books were published to serve special purposes, and that the witness had been involved in their publication. They also suggested that cars could be used in his area even during the 1971 war period and that there were accessible roads. The witness denied the suggestion that he knows Kamaruzzaman or about his involvement with the Pakistani Army. He stated that Kamaruzzaman only become somewhat known in his community in the last 10 years as a Jamaat leader and many still don’t know him.

Courtroom Administration During Witness Testimony: Allegations of Threats

On 10 March 2013, during the cross-examination of Defense witness 1, the Defense complained about the presence of one Mr Panu, whose presence in the courtroom they claimed was designed to intimidate the witness. The Defense witness expressed concern about the presence of two such persons who belong to his local community. The Defense

therefore requested that the Tribunal require those individuals to leave during the witness' testimony. Prosecutor Zead al-Malum stated that the presence of the individuals should be accepted, because one is a Prosecution witness and the other is a citizen and is entitled to watch the court proceedings. The Court concluded that it would make the two individuals in question leave if the Defense witness felt insecure, but when they asked the Defense witness directly in open court whether he was afraid or objected to their presence, the witness replied that he was not afraid, and that it was alright if the two individuals stayed. The two persons were therefore not asked to leave, and examination was conducted in their presence.

Examination of Defense Witness 2: Defense Examination-in-Chief

Defense witness Al-Haj Moulobi Mohammad Askor Ali testified about his relationship with Liberation War victim Golam Mostafa and Mostafa's family, and about his own knowledge about Mostafa's murder. He testified that Mostafa's family never alleged that anyone named Kamaruzzaman was involved in the death of the victim. He stated that Shahid Golam Mostafa's house was in the same Union as his. He also testified that he (Ali) became a teacher at Khorkhoria Junior Girls School in 1965. Ms. Kohinur, the younger sister of victim Mostafa, was a student at that time, according to the witness, and Mostafa's father was also a teacher. The witness stated that he had a close relationship with their family, and used to visit their house often.

He testified that, at the end of August 1971, on a Friday, he heard that Golam Mostafa had been killed by the Pakistani military. Upon hearing this, he went to Mostafa's house. Mostafa's body was brought to the house for prayers and burial. Ali testified that, despite his ongoing close relationship with the family, he never heard from Mostafa's parents or anyone else in the locality that anyone called Kamaruzzaman had been involved with the killing.

Cross-Examination

The witness was asked to name individuals he knew to have helped the Pakistani military during 1971. Ali replied that he had heard about the involvement of individuals named Mofazzel, Kamra, Shurozzaman, and Samedul. He testified that he does not remember other names, and that he never heard the name of Kamaruzzaman as a Rajakar/Al-Badr member.

At the end of the cross-examination, the Prosecution suggested that the witness in fact knew about the involvement of Kamaruzzaman, but was concealing it because he had been bribed by Kamaruzzaman's family to give false testimony. The witness became upset after these accusations, and stated loudly that Almighty Allah had given him enough wealth and that he would never take bribe for anything.

Examination of Defense Witness 3

Muhammad Kamaruzzaman's elder brother, Kafiluddin, testified as the Defense's third witness. He sought to prove that the accused was in his village home of Sherpur in Mudipara throughout the Liberation War, and was therefore unable to commit the alleged crimes. Kafiluddin told the Tribunal that his brother Kamaruzzaman had been arrested at the end of 1971 as a collaborator suspect, but was released three months later. The witness testified that his mother had asked him to bring Kamaruzzaman home from Mymensingh after the Liberation War began. He said that he went to Mymensingh and brought Kamaruzzaman back to their home village. The Defense witness claimed that his brother was never involved in politics while studying in school or college.

On cross-examination, the Prosecution asked Kafiluddin whether he knew that Kamaruzzaman had been arrested on December 29, 1971, as a leader of Razakar and Al-Badr (auxiliary forces to the Pakistani army). Kafiluddin acknowledged that he was arrested as a suspected collaborator at Kamalapur Railway Station in Dhaka, but he said that Kamaruzzaman was not the chief organiser of Razakar and Al-Badr for the greater Mymensingh area, and that he had no contact with Pakistani army camps during the war. He also testified that Kamaruzzaman was not the president of Islami Chhatra Sangha [then student wing of Jamaat-e-Islami] of greater Mymensingh, and that he had no involvement in the killings and mass killings.

CHIEF PROSECUTOR VS. MUJAHID

Rejection of Defense Orders

The Tribunal disposed of three Defense applications filed in the *Mujahid* case, rejecting all of them. The three applications were for 1) permission to produce additional documents in support of the Defense's case, 2) judicial action against Prosecution witness 1 for providing false testimony under oath, and 3) permission to ask certain questions to Prosecution witness 1, which the Defense were not allowed to ask during his initial testimony. Justice Mujibur Rahman Miah read the orders of rejection, stating that the applications had been rejected because neither the International Crimes (Tribunal) Act 1973 nor the Rules of Procedure contained any provision to allow the Defense to produce additional documents at a later stage of the trial, or to take steps for alleged perjury by a prosecution witness, or to cross-examine a prosecution witness on recall.

Examination of Prosecution Witnesses 14, 15 and 16

The Tribunal heard testimony from three seizure list witnesses (witnesses testifying about the documents obtained during the investigation), including Prosecution witness 14, Md Azabuddin Miah, the Assistant Librarian of Bangla Academy (Newspaper Section); Prosecution witness 15, Amena Khatun, the manager of the Liberation War Museum's Documentary Section; and Prosecution witness 16, Shapan Kumar Biswas, the Keeper of the National Museum's History and Arts Section. All three witnesses provided perfunctory testimony authenticating documents provided to the Investigating Officer.

During cross-examination, the Defense attempted to cast doubt on the authenticity of the documents by pointing out possible gaps in the line of possession and possible opportunity to alter or forge documents.

CONTEMPT PROCEEDINGS

Contempt Proceedings Against Jamaat Leader Selim Uddinⁱ

At the beginning of the week the Prosecution notified the court of the arrest of Mr Selim Uddin, a Jamaat leader for whom the tribunal had issued an arrest warrant on 6 March 2013. The Tribunal passed an order asking the authorities to produce the Jamaat leader before the tribunal at 2 p.m. on the same day. Defense counsel Tajul Islam was appointed as counsel for Selim Uddin. Islam submitted a three-fold application requesting (1) bail (2) time to prepare an explanation and (3) dispensation to proceed without the personal appearance of the client. The Defense stated that the accused was concerned about being present at the Tribunal because of security threats. Tajul Islam also requested that the Court instruct the Investigation Agency not to torture the Accused while on remand for the other two criminal proceedings.

Against the objection of the Prosecution, the Tribunal accepted the Defense's applications, and released Selim Uddin on bail, subject to a security bond of Taka 100,000 (one lakh) and surety by two lawyers. However, they stated that they lacked the jurisdiction and authority to direct the Investigation Agency not to torture the Accused as the other two cases are independent of the ICT. The Tribunal stated that the proper court to issue such a directive is the High Court.

At the end of the week the Tribunal ordered twelve private television channels to submit video footage to the Court, no later than March 20th, of speeches by three Jamaat-e-Islami leaders. The Tribunal also ordered Selim Uddin to explain his comments on March 21. They also fixed this date for hearing Jamaat leaders Rafiqul Islam Khan and Hamidur Rahman Azad, MP, explain comments they had previously made about the Tribunal and its trial proceedings.

Warning of Possible Contempt Issued Against Daily Shongram

After hearing the contempt proceedings against Selim Uddin, the Tribunal also expressed concern regarding another media report it considered borderline contemptuous, published in the Daily Shongram on 7 March. The media report had stated that Awami League leaders facing contempt charges were only asked to submit written explanations through their lawyers, whereas the Tribunal required the personal appearance of Jamaat leaders facing similar proceedings. The Court called the staff reporter of the Daily Shongram, who was present in the courtroom, and instructed him to inform the higher officials of the paper that this type of report tends to give an adverse impression of the Tribunal and would not be tolerated.

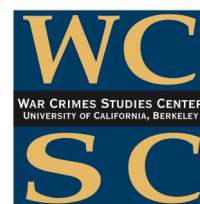
Contempt Proceedings against MK Anwar

The Tribunal also addressed contempt proceedings against BNP leader MK Anwar. Counsel for the accused submitted that newspapers had misquoted MK Anwar, and that he in fact held the Tribunal in the highest regard. His comments were meant to criticize the government for its decision to prosecute only leaders of the opposition parties, and for failing to hold the Rajakars and anti-liberation forces within the Awami League accountable.

The Tribunal rejected the argument that the media had misquoted MK Anwar, stating that the comments were published in multiple places, and it was unlikely that they all incorrectly reported the matter. Additionally, the Tribunal stated that, while political conflict between the two major political parties is not appropriate for adjudication by the Tribunal, derogatory comments about the government that ultimately affect the impression of the Tribunal could and would be acted upon. The Tribunal expressed their displeasure that MK Anwar had attempted justify his comments, rather than giving an unconditional apology. They noted that some courts in common law jurisdiction follow jurisprudence allowing them to punish citizens for criticizing judges under the doctrine of scandalizing the court. The Tribunal acknowledged that criticism is not necessarily equivalent to scandalizing, and said there may indeed be some criticism. MK Anwar's comments were not about a sub-judice matter, but they nonetheless condemned such comments, terming them "reckless, foolish and disparaging." However, the Tribunal ultimately concluded that, in consideration of the social and political position of the Accused, the court would not take any further steps against him. They instead cautioned him that no such comment would be tolerated in the future.

* AIJI is a collaborative project between the East-West Center, in Honolulu, and the War Crimes Studies Center, at the University of California, Berkeley. Since 2003, the two Centers have been collaborating on projects relating to the establishment of justice initiatives and capacity-building programs in the human rights sector in South-East Asia. The Program is funded through the East-West Center, thanks to generous grants from the Open Society Foundation and private donors.

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ⁱ See previous discussion of contempt proceedings against these Jamaat-e-Islami leaders in Weekly Digest Issue 6, available at: <http://bangladeshtribunalobserver.org/2013/03/25/weekly-digest-issue-6-february-24-28/>