

**MEMORANDUM TO HER EXCELLENCY, THE PRIME MINISTER,
PEOPLE'S REPUBLIC OF BANGLADESH, DHAKA, BANGLADESH**

In the matter of

**Request to remove the International Commission of Jurists (ICJ), Geneva,
from the List of Honourees for Contribution in the Liberation War of
Bangladesh 1971 on 40th anniversary of the Independence of Bangladesh**

Submitted by
International Crimes Strategy Forum (ICSF)
<http://icsforum.org>

12 March 2011

Representing the position of ICSF coalition networks/members in -

Australia: Sydney, Melbourne; Bangladesh: Dhaka, Chittagong, Sylhet, Rajshahi; Belgium:
Brussels; Canada: Toronto, Montreal; India: Calcutta, Delhi, Mumbai, Bangalore; Indonesia:
Jakarta; Germany: Berlin, Kessel; Japan: Tokyo; Malaysia: Kualalampur; Saudi Arabia: Jeddah;
Sweden: Stockholm, Orebro, Uppsala; United Kingdom: London, Oxford, Manchester,
Nottingham, Reading, New Castle, Cardiff, Canterbury; United States: New York, Washington,
Irving, Dallas, North Carolina, Urbana-Champaign, Albuquerque; UAE: Dubai.

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Re: Request to remove the International Commission of Jurists (ICJ), Geneva, from the List of Honourees for Contribution in the Liberation War of Bangladesh 1971 on 40th anniversary of the independence of Bangladesh.

Excellency,

1. We, the International Crimes Strategy Forum (ICSF- <http://icsforum.org>), an independent global coalition of activists and experts, who are all deeply dedicated to the spirit of our historic Liberation struggle of 1971, joined together and established the network, the ICSF, to support the international crimes and justice process initiated by your Government through the International Crimes Tribunal (ICT), Bangladesh, to investigate and prosecute those responsible for international crimes committed in 1971. Since its inception, ICSF been interacting and engaging with the ICT and other relevant authorities to assist the Government in its timely and momentous initiative of bringing to account the war criminals of 1971.

2. The attention of the ICSF was recently drawn to a laudable decision taken by the Government of Bangladesh to honour a number foreign nationals and organisations for their contribution to the Liberation War of Bangladesh in 1971 at its 40th anniversary of national independence on March 26, 2011. According to [published news](#)¹ (see Annexe I) 50 individuals and 4 organisations have been nominated for receiving this honour. The decision was taken in a Cabinet meeting chaired by your Excellency the Prime Minister. The Liberation War of Bangladesh in 1971 was fought in numerous fronts and many individuals, groups and organisations, regardless of their nationality, played a crucial part to promote our cause of independence through generating favourable public opinion and international support. The task of honouring such individuals and organisations by an ‘independent Bangladesh’ in recognition of their contributions is without a doubt a long-overdue one.

While we commend the Government for this excellent initiative, we also consider it our duty to raise our reservations regarding one particular organisation so chosen to be honoured. The full list has not been made public but based on the newspaper reports, we noted that the Geneva

¹ The report in the Daily Star is available online: <http://www.thedailystar.net/newDesign/news-details.php?nid=176847> (last accessed 12 March 2011).

based [International Commission of Jurists \(ICJ\)](#)² is one such organisation nominated for this unique honour.

3. While the ICSF is aware of the reported input of the International Commission of Jurists (ICJ) along with many others, in the drafting of the International Crimes (Tribunals) Act, 1973, the ICSF has taken serious exception to the ICJ's enquiry report titled [The Events in East Pakistan, 1971, A Legal Study by the Secretariat of the International Commission of Jurists](#)³. The ICJ Report published in June 1972 by Mr. Niall MacDermot, its Secretary General, claimed that it "contains a factual account of events which occurred in East Pakistan from March to December 1971, together with a discussion of some of the legal issues involved" (p.5).

The ICSF finds the ICJ enquiry Report affront to sacrifices made by the people in 1971 and hits at the very basis of Bangladesh, its declaration of independence, by Bangabandhu Sheikh Mujibur Rahman, which the Report concluded as "not entitled in international law" suggesting that such declaration of independence was illegal under international law, effectively nullifying legitimacy of Bangladesh. Moreover, the Report unfairly equated crimes committed by the army and local collaborators against the people of Bangladesh with that of sufferings of Biharis. The Report categorically stated that both sides committed similar crimes, which were gross distortion of facts.

In light of these findings and detail analysis below, it is the humble submission of the ICSF before the Government to review this selection and remove the International Commission of Jurists (ICJ) from the list of honourees.

Excellency,

4. Based on the proposal adopted in an international conference in Aspen (Colorado) in September 1971, a three-member Enquiry Commission of the ICJ was set up in November of the same year to enquire: "into the reported violations of human rights and the rule of law in East Pakistan since March 1, 1971, and, insofar as they are shown to be well-founded, to enquire into their nature, extent and causes and to report, with recommendations." The Enquiry Commission was eventually cancelled due to the non-cooperation by the Pakistan Government. Subsequently, the ICJ Secretariat resolved to carry out a Staff Study covering the same issue with extended terms of reference. The finding of the Staff Study was published by ICJ Secretariat in June 1972

² Official website of the organization: <http://www.icj.org/>.

³ Secretariat, International Commission of Jurists. *The Events in East Pakistan, 1971: A Legal Study*. Geneva, 1972. Full text of the report is available on ICSF E-Library: <http://icsforum.org/library/show.php?record=329>

in the form of a report titled: [*The Events in East Pakistan, 1971, A Legal Study by the Secretariat of the International Commission of Jurists*](#)⁴.

5. Although the report acknowledges that international crimes including Crimes of Genocide were committed in 1971 against the Bengali people, it was subsequently suggested in the same sentence of the report that similar crimes were committed by "*Bengali insurgent forces (read Muktiyoddhas).... against Biharis and other non-Bengalis*". The Summary of Conclusion of the report [reads](#) (in p.97, See Annexe II):

(1) During the civil war from 25 March to 3 December and during the international war from 4 to 18 December, massive violations of human rights occurred in East Pakistan. These were committed (a) by the Pakistani army and auxiliary forces against Bengalis, and in particular against members of the Awami League, students, and Hindus, and (b) by Bengali insurgent forces and mobs against Biharis and other non-Bengalis (Part II (b)).

5.1. The ICSF believes that the report's key failure is its inability to distinguish between crimes committed by the invading Pakistani forces (and their collaborators) and the alleged violations of rights of the Biharis and other non-Bengalis. Unfortunately, the ICJ report places these two different sets of facts under the same bracket. Equating these two sets of alleged atrocities is problematic and misleading because it not only blurs the distinction between the 'perpetrator and victim' and 'parties/groups invading each other' but also poses serious legal challenges in terms of prosecution. The fact remains that the alleged human rights violations against the Biharis and other non-Bengalis, however condemnable they may be, were never part of any systematic plan on the part of the Bengali liberating forces. They were neither endorsed nor organised by any authority. There is not a shred of evidence to suggest that the then Mujibnagar Government or the Sector Commanders fighting in 1971 were ever involved in these alleged atrocities. The alleged atrocities on the Biharis and other non-Bengalis no matter how serious, were mostly isolated incidents. It is also worth mentioning here that there is ample evidence to suggest that the Government of independent Bangladesh led by Bangabandhu Sheikh Mujibur Rahman had in fact taken initiatives to protect the Bihari population from such common wartime atrocities of retaliatory nature.

5.2. Moreover, paragraphs/points 2 and 3 of the ICJ report's Summary of Conclusion [reads](#) (p.97, see Annexe II):

(2) These violations involved the indiscriminate killing of civilians, including women and children; the attempt to exterminate or drive out of the country a large part of the Hindu population of approximately 10 million people; the arrest, torture and killing without trial

⁴ Ibid.

of suspects; the raping of women; the destruction of villages and towns; and the looting of property. The scale of these crimes was massive, but it is impossible to quantify them. Figures given by both sides tend to be greatly exaggerated (Part II (b)).

(3) In addition to criminal offences under domestic law, there is a strong *prima facie* case that criminal offences were committed in international law, namely war crimes and crimes against humanity under the law relating to armed conflict, breaches of Article 3 of the Geneva Conventions 1949, and acts of genocide under the Genocide Convention 1949 (Part IV).

5.3. While paragraph/point 2 of the report's Summary of Conclusion lists the types of atrocities committed, point-3 identifies the "international crimes" these atrocities fell under, such as: war crimes, crimes against humanity and genocide. By putting the Pakistani army and the Bengali Liberation Forces, i.e. the *Muktibahini*, at par in terms of commission of these international crimes, and also by failing to expressly disassociate the *Muktibahini* from these offences - the report not only distorted historical facts, but also performed a gross disservice to justice under the guise of an 'impartial finding'. Equating alleged violations (if there were any) of the *Muktibahini* with that of the proven "international crimes" committed by the Pakistani forces' simply does not stand definitional scrutiny.

6. Alarming, the ICJ report also declared that the Awami League leaders (read Bangabandhu and Mujibnagar Government) were not entitled to proclaim independence of Bangladesh under international law in 1971. The relevant portion from the report [is quoted here](#) (p.97, see Annexe II):

(6) The Awami League leaders were not entitled in international law to proclaim the independence of Bangladesh in March 1971 under the principle of the right of self-determination of peoples (Part V).

6.1. First of all, it is ICSF's understanding that the ICJ report underplays the "Proclamation of Independence" describing it as a mere partisan declaration by the "Awami League Leaders". This assertion is in total contradiction to the real facts because the "Proclamation of Independence" was issued not by any singular political party but was rather an official declaration made by a legitimate Government in exile (i.e., the Mujibnagar Government).

6.2. This wrongful position taken by the ICJ in its report also demonstrates that the ICJ was fundamentally misinformed on the issue of declaration of independence in Bangladesh in 1971. In fact, there were two separate declarations which the ICJ in its report failed to note or distinguish. The first was issued by Bangabandhu Sheikh Mujibur Rahman on 26 March 1971, known as the "Declaration of Independence". The other declaration was the "Proclamation of

Independence" issued by the Mujibnagar Government on 10 April 1971. It is the "Proclamation of Independence"⁵ made by the then Mujibnagar Government that is integral part of the Constitution of Bangladesh (see Annexe III).

6.3. The above position taken by the ICJ lacks support under international law. Furthermore, the ICSF believes that there indeed are influential interpretations and dominant practices that refute the position taken by the ICJ. The Right of Self Determination is a collective right based on the international law principle that nations (or peoples) have a right to freely choose their international political status or sovereign mode of governance. Opinions of different schools may diverge as to what constitutes "nation" or which "people" can legitimately claim this right, but summarily rejecting Bangabandhu Sheikh Mujibur Rahman or the Mujibnagar Government's right to proclaim independence clearly exposes the bias that lies within the ICJ report, mostly due to its failure to engage with the other dominant views on the point.

6.4. The ICJ's position on Bangladesh's Right of Self Determination is a contradiction in itself. On the one hand the ICJ finds quite correctly, that the population of East Pakistan, using international law principles, could be considered as "people" (p.72, see Annexe II) for the purpose of Right of Self Determination. Strangely, after reaching this correct analysis, the ICJ wrongly concludes that when such "people" are denied the right to self-govern (following the gaining of absolute majority in the national elections of 1970), and when a reign of terror is unleashed upon them (on the Dark Night of 25 March 1971 during which the Pakistan Army carried out what was infamously called 'Operation Searchlight'), the same people cannot assert their Right of Self Determination (pp.74-75, see Annexe II). Surprisingly, in page-75 (see Annexe II), the ICJ report states just the opposite and again contradicts itself. Here, after dubbing the martial regime in Pakistan as illegal, recognising the breakdown of the old Constitution and characterising the regime of Yahya Khan as a 'self-appointed and illegal military regime', the ICJ ironically reaches the conclusion that the Proclamation of Independence of Bangladesh was illegal under international law (p.75).

6.5. It is also worth mentioning here that the placing of the historic [6-Point Demands](#)⁶ (Annexe IV) spearheaded by Bangabandhu Sheikh Mujibur Rahman in 1966 bears great similarity with the spirit enshrined in 1970 [Resolution No. 2625 \(XXV\) of the United Nations General Assembly](#) titled *Declaration on the Principles of International Law concerning Friendly*

⁵ "Bangladesh Proclamation of Independence." *ILM*. 119 (1972): 119 (2). Full text of the Proclamation can be directly downloaded from ICSF E-Library using this link:
http://icsforum.org/library/files/50_Unknown1972.pdf

⁶ *Historic Six-Point Demand that led to the Independence of Bangladesh*. Dhaka: East Pakistan Awami League, 1966. Full text of the document can be directly downloaded from ICSF E-Library using this link:
http://icsforum.org/library/files/264_Islam1966.pdf

Relations and Co-operation among States in accordance with the Charter of the United Nations (A/8082⁷), which reads (Annexe V):

By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right to freely determine, without external interference, and their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter.

. . . The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people.

6.6. It is also a historic fact that the Pakistan Government paid no heed to the [6-Point Demands](#), refused to recognise the newly elected sweeping majority of the Awami League led by Bangabandhu Sheikh Mujibur Rahman following the parliamentary elections of 1970 and staged ‘Operation Searchlight’ on the night of 25 March 1971 mercilessly killing thousands of innocent Bengalis. It was in response to this position taken by the Pakistan Government that the Bengalis validly exercised their Right of Self Determination which was expressed through the Declaration of Independence by Bangabandhu Skeikh Mujibur Rahman on 26 March 1971, the Proclamation of Independence made by the Mujibnagar Government on 10 April 1971, and war of national liberation that followed and concluded on 16 December 1971.

6.7. It is also undisputed that Article 1(4) of [Protocol I of the Fourth Geneva Convention 1949](#)⁸ (Annexe VI) extends the traditional definition of ‘international armed conflict’ to include armed conflicts in which people are fighting against colonial domination, alien occupation or racist regimes ‘in the exercise of their right to self-determination’, i.e. wars of national liberation. It is an uncontested fact that the Bengalis were validly exercising their Right of Self Determination against the colonial and racist Pakistani regime throughout 1971 under the leadership of Bangabandhu Sheikh Mujibur Rahman and the Mujibnagar Government.

⁷ UN General Assembly. *Declaration on Principles of International Law concerning Friendly relations and Cooperation among States in Accordance with the Charter of the United Nations (Res. 2625) 1970*. Full text of the document can be directly downloaded from ICSF E-Library using this link:

http://icsforum.org/library/files/328_UNGeneralAssembly.pdf

⁸ <http://www.icrc.org/ihl.nsf/FULL/470?OpenDocument>

6.8. The above contention of the ICSF is supported by relatively recent [*Kosovo Case \(2010\)*](#)⁹ where the International Court of Justice with regard to unilateral declaration of independence stated (paragraph 76 of the judgment):

During the eighteenth, nineteenth and early twentieth centuries, there were numerous instances of declarations of independence, often strenuously opposed by the State from which independence was being declared. Sometimes the declaration resulted in the creation of a new State, at others it did not. In no case, however, does the practice of States as a whole suggest that the act of promulgating the declaration was regarded as contrary to international law. On the contrary, State practice during this period points clearly to the conclusion that international law contained no prohibitions of declarations of independence. During the second half of the twentieth century, the international law of self-determination developed in such a way as to create a right to independence for the peoples of non-self-governing territories and peoples subject to alien subjugation, domination and exploitation.

Excellency,

6.9. It is the humble submission of the ICSF that uncritically accepting views as biased and misconceived as the ICJ's on the "Proclamation of Independence" and Bangladesh's right of self-determination will have certain adverse implications. It would tantamount to conceding that - the Declaration of Independence itself by Bangabandhu Sheikh Mujibur Rahman, the Proclamation of Independence by Mujibnagar Government, the conduct and administration of the Liberation War in those nine months of 1971 - were all illegitimate. It is for this biased and misconceived position taken by the ICJ that it should not have been chosen for this unique honour by the State of Bangladesh.

7. To add to the controversy, the ICJ report has also described the larger part of Bangladesh's Liberation War of 1971 as a "civil war". Describing our glorious Liberation War as such is not only factually and legally incorrect, but also represents a revisionist position frequently adopted by the pro-'war criminal lobby' in both Bangladesh and abroad. The legal regime that applies to internal conflict (read "civil war") is distinct from an international one. Although some may claim that the distinction has now become somewhat academic, the application of the former regime is consistently favoured by the war criminal lobby for obvious

⁹ *Advisory Opinion of the International Court of Justice determining Accordance with International Law of the Unilateral Declaration of Independence in respect of Kosovo*. International Court of Justice, 2010. Full text of the judgment available for download at ICSF E-library: <http://icsforum.org/library/show.php?record=258>.

strategic reasons. In line with the spirit of the liberation movement, the correct view is that the liberation war was an international war. It was not fought among civilians, rather it was a war where a nation stood together to expunge an invading foreign army in exercise of its recognised collective right of self-defence.

On the point of history, in exercise of our right of self-determination, Bangladesh's sovereign independence was manifested the day when the national flag was raised, i.e., on 2 March 1971. Referring to this particular period, even the Secretary General of ICJ, Niall MacDermot QC, in one of his writings acknowledged that "*it is hardly an exaggeration to say that Awami League led by Mujibur Rahman provided the de facto government of East Pakistan*"¹⁰. This was followed by the Declaration of Independence by Bangabandhu Sheikh Mujibur Rahman himself on 26 March 1971 at 1:30 am immediately prior to his arrest (as per Radio Pakistan's news on 29 March 1971), which was followed first by a formal Proclamation of Independence and then by the formation of the first Government of the People's Republic of Bangladesh in Mujibnagar on 10 April 1971. These are but a few of the legally significant historical facts supporting Bangladesh's statehood which makes 1971 an international armed conflict. ICJ's unapologetic depiction of our glorious liberation war as a "civil war" or "insurgency" are both improper and misconceived, and we are of the opinion that the Government of Bangladesh should not reward such impropriety by honouring this institution.

8. Throughout the report, ICJ characterised the *Muktibahini* collectively as "insurgents" which is not only demeaning to the Freedom Fighters of Bangladesh's Liberation War but is also an affront to the liberation movement itself. Freedom Fighters also known as *Muktijodhdhas*, i.e. members of the *Muktibahini*, command the highest possible regard in independent Bangladesh, and the people of Bangladesh have a special place in their hearts for these heroes who once risked and sacrificed their lives and limbs for their country. It would be a travesty to watch a pro-liberation Government that carries with it the true spirit of 1971 bestowing honour to an entity like the ICJ that has failed to show any respect to our liberation war heroes.

9. The ICJ report concluded with three very problematic indictments against India, one of the staunchest allies of Bangladesh during the Liberation war of 1971. The report [reads](#) (p.98):

(9) India's supply of arms and training facilities to the insurgent forces was in breach of her duty of neutrality under international law (Part VII).

¹⁰ See: Niall Macdermot. "Crimes Against Humanity in Bangladesh". International Lawyer 7.2 (1973): 476-484, at p.477. Available at ICSF E-Library: <http://icsforum.org/library/show.php?record=34>

(10) India's claim that her invasion of Pakistan was justified in international law under the doctrine of self-defence and on the grounds that she was acting in support of her Bangladesh ally cannot be accepted (Part VII).

(11) India could, however, have justified the invasion on the grounds of humanitarian intervention, in view of the failure of the United Nations to deal with the massive violations of human rights in East Pakistan which were causing a continuing and intolerable refugee burden to India (Part. VII).

9.1. The above mentioned indictments against India do not need any further explanation as they are typical of the bias inherent in the ICJ report. The report simply echoed the position against India that was vigorously put forward by West Pakistan and its allies (such as USA and China) in 1971. These findings alone say a lot about the credibility that this so-called "independent report" actually carries. The Government of Bangladesh should be extra cautious before endorsing such biased views against India, a country that has been one of our greatest allies during our liberation struggle and has also remained a friendly State to this date. Therefore, bestowing honour to the ICJ could also as a consequence lead to embarrassment in the diplomatic arena.

10. From the above discussion, the ICSF sincerely hopes that it is evident before the Government that the ICJ report is not a balanced one, neither it is impartial. The ICJ report does not reflect the correct position of international law on a number of points. Moreover, it is full of observations which are misleading and untrue. Only for this Report alone, the ICJ should not be awarded this honour as that would tantamount to endorsement of its findings which are problematic factually, legally, strategically, and diplomatically. At a time when the country is bracing itself to try the perpetrators of 1971, it is important that the Government maintains a consistent strategy over its position on the events culminating to and during 1971.

11. It is therefore the humble submission of the ICSF that the Government re-evaluate it's decision to honour the International Commission of Jurists (ICJ) because the legal position undertaken by the ICJ on our glorious Liberation War of 1971 is not in line with that taken by the Government, i.e. the line taken by the legitimate and emerging principles of international humanitarian law.

Excellency, we remain.

International Crimes Strategy Forum (ICSF)
<http://icsforum.org>

12 March 2011

Representing the position of ICSF members/networks in:

- a. Australia: Sydney, Melbourne
- b. Bangladesh: Dhaka, Chittagong, Sylhet, Rajshahi
- c. Belgium: Brussels
- d. Canada: Toronto, Montreal
- e. India: Calcutta, Delhi, Mumbai, Bangalore
- f. Indonesia: Jakarta
- g. Germany: Berlin, Kessel
- h. Japan: Tokyo;
- i. Malaysia: Kualalampur
- j. Saudi Arabia: Jeddah
- k. Sweden: Stockholm, Orebro, Uppsala
- l. United Kingdom: London, Oxford, Manchester, Nottingham, Reading, New Castle, Cardiff, Canterbury
- m. United States: New York, Washington, Irving, Dallas, North Carolina, Urbana-Champaign, Albuquerque
- n. UAE: Dubai.

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Annexe III

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Annexe IV

Historic Six-Point Demand that led to the Independence of Bangladesh. Ed. Nurul Islam. Dhaka: East Pakistan Awami League, 1966.

Annexe V

Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations [A/RES/25/2625 (UN General Assembly)]

Annexe VI

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.

ANNEXE I

Daily Star report on the list of Honourees

Can also be accessed online here:

<http://www.thedailystar.net/newDesign/news-details.php?nid=176847>

Contribution in 1971**50 foreign nationals, orgs to be honoured****Unb, Dhaka**

The government will accord honour to 50 distinguished foreign nationals including heads of states and governments and five international organisations on the 40th anniversary of Independence on March 26.

The government has decided to honour the personalities and organisations in recognition of their contribution in Bangladesh's Liberation War in 1971. With Prime Minister Sheikh Hasina in the chair, the cabinet yesterday approved the proposal, PM's Press Secretary Abul Kalam Azad informed the reporters after the cabinet meeting at the Secretariat.

Earlier, a national committee, headed by Foreign Minister Dipu Moni, finalised the draft list of the nominees which was placed at the cabinet meeting for approval.

The prime minister is expected to distribute certificates and crests among them in the programme.

The foreign friends who were enlisted for according honour include 17 from India, nine from the US, seven from Britain, four Russians, three Japanese and one each from Australia, Bhutan, Germany, Ireland, France, Nepal, the Netherlands and Sweden, sources said.

United Nations High Commissioner for Refugees, Geneva-based International Commission of Jurists, British Broadcasting Corporation and Indian Radio Akashbani are among the organisations.

Former Indian prime minister Indira Gandhi, former West Bengal chief minister Jyoti Basu, former Indian chief of army staff field marshal Manekshaw and eastern commander of Indian army Gen Aurora, are among the Indians.

The Indian soldiers killed in the military operation against the Pakistan occupation forces will collectively be honoured.

Senator Edward Kennedy, known as friend of Bangladesh, is one of the eight Americans to be honoured by the government.

The four Russians are Yakov Alexandrovich Malik, former Soviet ambassador to the UN, Rear Admiral Sergey Pavlovich Zuenko, Alexei Nikolayevich Kosygin, chairman of the Soviet Council of Ministers and Nikolai Viktorovich Podgorny, chairman of Presidium of the Supreme Soviet of the USSR.

The US nationals are Edward Kennedy, Senator William Frank Church, Senator William Saxbe, Archer Kent Blood, singer Joan Baez, poet Allen Ginsberg, Laver Levin, Father Richard W Timm CSC and Father Evans CSC.

The British nationals included in the list are singer George Harrison, Edward Heath, Bruce Douglass Mann, Harold Wilson, Julian Francis, Peter Shore and Simon Dring. Three Japanese are Takashi Hayakawa, Takamasa Suzuki and Nawaki Usui.

Besides, BP Koirala of Nepal Andre Malraux of France, former Bhutanese foreign minister Ugyen Tshering Shaun Maxbride of Ireland, William AS Quaderland, Bir Protik of Australia Kinten Watt Bagay of the Netherlands, Lars Leijonborg MP of Sweden and Sunil Das Gupta of Germany are in the list.

ANNEXE II

Pages from: International Commission of Jurists. *The Events in East Pakistan, 1971: A Legal Study*. Geneva, 1972.

Note:

Full-text of the report is available on ICSF E-Library (<http://icsforum.org/library>). It can be directly downloaded from the library using this link:

http://icsforum.org/library/files/329_Secretariat1972.pdf

The Memorandum quotes from pages 5, 74, 75, 97 and 98 all of which follows.

PREFACE

In September 1971 an international conference of jurists convened in Aspen, Colorado, by the ICJ and the Aspen Institute for Humanistic Studies called upon the International Commission of Jurists to set up a Commission of Enquiry into the events in East Pakistan. A Commission of three prominent international lawyers was accordingly appointed in November with the following terms of reference:

'To enquire into the reported violations of human rights and the rule of law in East Pakistan since March 1, 1971, and, insofar as they are shown to be well-founded, to enquire into their nature, extent and causes and to report, with recommendations.'

The Indian Government and the provisional Government of Bangladesh agreed to cooperate fully with the Commission, but unfortunately the former Pakistan Government refused their cooperation, contending that the subject of the enquiry was a purely internal matter.

The Commission were due to leave for India in December to take evidence there, when open hostilities broke out between India and Pakistan. The Indian Government asked that the visit of the Commission should be postponed, but as the members of the Commission were not available at a later date, the Commission of Enquiry had to be cancelled.

However, as a great deal of valuable documentary evidence had been collected, together with some oral evidence, it was decided that the Secretariat of the ICJ should prepare this Staff Study covering the same ground as the proposed Commission of Enquiry. The scope of the Study was extended to consider the application of the right of self-determination of peoples, the role of the United Nations and the role of India.

This Staff Study contains a factual account of the events which occurred in East Pakistan from March to December 1971, together with a discussion of some of the legal issues involved. The factual account is based partly upon published books, partly upon contemporary newspaper accounts, partly upon sworn depositions of refugees in India, and partly upon oral and written statements of evidence given to the International Commission of Jurists between October 1971 and March 1972. Nearly all these statements have been made by European and American nationals who were in East Pakistan at the time.

said that the Six Points complied with the principle, whereas a federal constitution within the Legal Framework Order would not have done?

The reason why President Yahya Khan would not allow a constitution to be drawn up in accordance with the Six Points is clear. He considered that in any constitution which would have resulted, the powers of the central government of Pakistan would have been weakened to the point where the future territorial integrity and political unity of Pakistan was threatened. It is easy to understand this attitude. As a military leader, it came naturally to him to think that a strong central government was the best and indeed the only way of maintaining the unity of the state. As he believed in the legality of his own Presidency and of his martial law regime, and was supported in this belief by the earlier decision of the Supreme Court in Dosso's case¹, he naturally considered that he was entitled and indeed that it was his duty to refuse to permit a constitution to be drawn up which did not comply with the conditions he had laid down in the Legal Framework Order.

We have already considered in Part III the legality of the martial law regime under Pakistan law, and have seen that the Legal Framework Order under which the elections were held was invalid. It may be argued from this that the Constituent Assembly itself was invalid and that the only way of returning to legality was by recalling the old National Assembly elected under the 1956 Constitution, and transferring the Presidency to the Speaker of the Assembly. In the circumstances prevailing, and in particular after the result of the 1970 election, whatever the strict legal position may have been, the old assembly would have lacked any political authority. The only practical way, it is submitted, of returning to legality would have been by convening the Constituent Assembly and allowing it to draw up a new constitution. These, however, are matters of domestic law. President Yahya Khan's regime had been internationally recognised as the Government of Pakistan, and its authority could not be challenged in international law.

It must also be remembered that the Awami League had no mandate for independence, not did they claim to have one. They had fought the election on the Six Points programme of autonomy within a federal constitution. It was only when the army made it clear by their crack-down that they were not prepared to entertain a constitution on this basis that the Awami League leaders proclaimed the independence of Bangladesh and called for armed resistance.

Therefore, if the Declaration of Principles of International Law is accepted as laying down the proper criteria, it is difficult to see how it can be contended that in March 1971 the people of East Pakistan,

¹ See Part III above.

or the leaders of the Awami League on their behalf, were entitled in international law to proclaim the independence of Bangladesh under the principle of self-determination of people.

It does not follow from this, of course, that the action of the Awami League leaders in calling for armed resistance to the army cannot be justified under the domestic law. As we have seen, the martial law regime was illegal and the old constitution had broken down and was completely discredited. It was necessary to draw up a new constitution for the state of Pakistan. The 1970 elections had resulted in a clear decision in favour of a certain level of provincial self-government. Let it be conceded in favour of General Yahya Khan that this would have seriously weakened the power of the central government. Nevertheless, it still recognised the territorial integrity and political unity of Pakistan. It may be that the only way of maintaining this unity was by reducing the power of the central government. As we have seen in Part I, the all-India constitution which Mr. Jinnah would have been prepared to accept in 1946 would also have resulted in a weak central government. Provided that the majority were ready, as they were, to grant an equal degree of autonomy to the people of West Pakistan, it is difficult to see why on democratic principles their will was not entitled to prevail. If the people of West Pakistan were not prepared to accept a constitution on this basis, the only remedy would have been partition of the state. The minority were not entitled to force their preferred constitution upon the majority.

In our view it was not in accordance with the principles of the Charter of the United Nations for a self-appointed and illegal military regime to arrogate to itself the right to impose a different form of constitution upon the country, which was contrary to the expressed will of the majority. As the army had resorted to force to impose their will, the leaders of the majority party were entitled to call for armed resistance to defeat this action by an illegal regime.

SUMMARY OF CONCLUSIONS

The following is a summary of the principal conclusions in this study:

(1) During the civil war from 25 March to 3 December and during the international war from 4 to 18 December, massive violations of human rights occurred in East Pakistan. These were committed (a) by the Pakistani army and auxiliary forces against Bengalis, and in particular against members of the Awami League, students and Hindus, and (b) by Bengali insurgent forces and mobs against Biharis and other non-Bengalis (Part II (b)).

(2) These violations involved the indiscriminate killing of civilians, including women and children; the attempt to exterminate or drive out of the country a large part of the Hindu population of approximately 10 million people; the arrest, torture and killing without trial of suspects; the raping of women; the destruction of villages and towns; and the looting of property. The scale of these crimes was massive, but it is impossible to quantify them. Figures given by both sides tend to be greatly exaggerated (Part II (b)).

(3) In addition to criminal offences under domestic law, there is a strong *prima facie* case that criminal offences were committed in international law, namely war crimes and crimes against humanity under the law relating to armed conflict, breaches of Article 3 of the Geneva Conventions 1949, and acts of genocide under the Genocide Convention 1949 (Part IV).

(4) Persons who have committed or were responsible for such crimes are liable to be tried under international law by an international court. If, as has been reported, the Bangladesh government are to put on trial senior Pakistani officers and civilians, they should set up an international court for the purpose with a majority of judges from neutral countries (Part IV).

(5) The martial law regime of General Yahya Khan was unconstitutional and illegal under domestic Pakistan law, but owing to its recognition by other states its validity cannot be challenged under international law (Part III).

(6) The Awami League leaders were not entitled in international law to proclaim the independence of Bangladesh in March 1971 under the principle of the right of self-determination of peoples (Part V).

(7) They were, however, justified under domestic law in using force to resist the attempt by the self-appointed and illegal military regime to impose a different form of constitution upon the country to that approved by the majority of the people in a fair and free election (Part V).

(8) The United Nations failed to use its available machinery to deal with the situation either with a view to terminating the gross violations of human rights which were occurring or to deal with the threat to international peace which they constituted (Part VI).

(9) India's supply of arms and training facilities to the insurgent forces was in breach of her duty of neutrality under international law (Part VII).

(10) India's claim that her invasion of Pakistan was justified in international law under the doctrine of self-defence and on the grounds that she was acting in support of her Bangladesh ally cannot be accepted (Part VII).

(11) India could, however, have justified the invasion on the grounds of humanitarian intervention, in view of the failure of the United Nations to deal with the massive violations of human rights in East Pakistan which were causing a continuing and intolerable refugee burden to India (Part. VII).

ANNEXE III

Proclamation of Independence

Bangladesh Proclamation of Independence**
[April 10, 1971]

The Proclamation of Independence

Mujibnagar, Bangladesh

Dated 10th day of April, 1971.

Whereas free elections were held in Bangladesh from 7th December, 1970 to 17th January, 1971, to elect representatives for the purpose of framing a Constitution,

AND

Whereas at these elections the people of Bangladesh elected 167 out of 169 representatives belonging to the Awami League,

AND

Whereas General Yahya Khan summoned the elected representatives of the people to meet on the 3rd March, 1971, for the purpose of framing a Constitution,

AND

Whereas the Assembly so summoned was arbitrarily and illegally postponed for an indefinite period,

AND

Whereas instead of fulfilling their promise and while still conferring with the representatives of the people of Bangladesh, Pakistan authorities declared an unjust and treacherous war,

AND

Whereas in the facts and circumstances of such treacherous conduct Banga Bandhu Sheikh Mujibur Rahman, the undisputed leader of 75 million of people of Bangladesh, in due fulfilment of the legitimate right of self-determination of the people of Bangladesh, duly made a declaration of independence at Dacca on March 26, 1971, and urged the people of Bangladesh to defend the honour and integrity of Bangladesh.

AND

Whereas in the conduct of a ruthless and savage war the Pakistani authorities committed and are still continuously committing numerous acts of genocide and unprecedented

*[The following documents appear on pages 119-125: the Bangladesh Proclamation of Independence of April 10, 1971; the Indian Prime Minister's statement recognizing the Government of the People's Republic of Bangladesh; the texts of U.N. Security Council Resolutions 303 (1971) and 307 (1971); and the text of U.N. General Assembly Resolution 2793 (XXVI).]

**[Reproduced from Bangladesh: Contemporary Events and Documents, published by the External Publicity Division, Ministry of Foreign Affairs, Government of the People's Republic of Bangladesh.]

tortures, amongst others on the civilian and unarmed people of Bangladesh,

AND

Whereas the Pakistan Government by levying an unjust war and committing genocide and by other repressive measures made it impossible for the elected representatives of the people of Bangladesh to meet and frame a Constitution, and give to themselves a Government,

AND

Whereas the people of Bangladesh by their heroism, bravery and revolutionary fervour have established effective control over the territories of Bangladesh,

We the elected representatives of the people of Bangladesh, as honour bound by the mandate given to us by the people of Bangladesh whose will is supreme duly constituted ourselves into a Constituent Assembly, and

having held mutual consultations, and
in order to ensure for the people of Bangladesh equality,
human dignity and social justice,

declare and constitute Bangladesh to be a sovereign People's Republic and thereby confirm the declaration of independence already made by Banga Bandhu Sheikh Mujibur Rahman and

do hereby affirm and resolve that till such time as a Constitution is framed, Banga Bandhu Sheikh Mujibur Rahman shall be the President of the Republic and that Syed Nazrul Islam shall be the Vice President of the Republic, and

that the President shall be the Supreme Commander of all the Armed Forces of the Republic.

shall exercise all the Executive and Legislative powers of the Republic including the power to grant pardon,

shall have the power to appoint a Prime Minister and such other Ministers as he considers necessary.

shall have the power to levy taxes and expend monies,

shall have the power to summon and adjourn the
Constituent Assembly, and

do all other things that may be necessary to give to the people of Bangladesh an orderly and just Government.

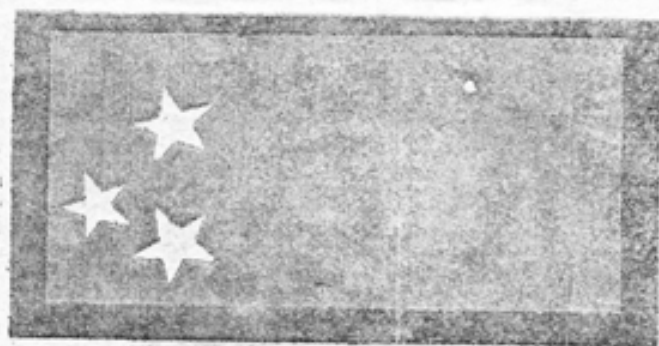
We the elected representatives of the people of Bangladesh do further resolve that in the event of there being no President or the President being unable to enter upon his office or being unable to exercise his powers due to any reason whatsoever, the Vice-President shall have and exercise all the powers, duties and responsibilities herein conferred on the President,

We further resolve that we undertake to observe and give effect to all duties and obligations that devolve upon us as a member of the family of nations and to abide by the Charter of the United Nations.

ANNEXE IV

***Historic Six-Point Demand that led to the Independence of Bangladesh.* Ed. Nurul Islam.
Dhaka: East Pakistan Awami League, 1966.**

**[Also available on ICSF E-Library (<http://icsforum.org/library>) for download. Direct
download link: http://icsforum.org/library/files/264_Islam1966.pdf]**



इय दया



समादनाय —
मृदुल श्रुतगाम

—ঃ মুখবন্ধ :—

একটি রাষ্ট্রের উন্নতি, অগ্রগতি, সংহতি ও নিরাপত্তা নির্ভর করে উহার আভ্যন্তরীণ শক্তির উপর। সেই শক্তির উৎস সত্ত্বষ্ট জনচিন্তা। আঠার বৎসর পূর্বে পাকিস্তান স্বাধীন রাষ্ট্ররূপে প্রতিষ্ঠিত হইয়াছিল। আজও ইহার রাষ্ট্রীয় কাঠামো গণসমর্থনের মজবুত ভিত্তির উপর দাঁড়াইতে পারে নাই। পাকিস্তানের মূল ভিত্তি ১৯৪০ সালের যে ঐতিহাসিক লাহোর প্রস্তাব পাকিস্তান অর্জনের সংগ্রামে মানুষকে অনুপ্রাণিত ও উদ্বুদ্ধ করিয়া তুলিয়াছিল পরবর্তীকালে ঐ মূল ভিত্তি হইতে বিচ্যুতিই এই অবস্থার আসল কারণ। এই বিচ্যুতি ঘটাইবার মূলে ছিল একটি কায়েমী স্বার্থবাদী শোষণ দলের স্বার্থায়েমী কারসাজী। ইহারা ইসলাম ও মুসলিমের নামে সারা পাকিস্তানের গোটা সমাজকে শোষণ করিয়া নিঃশেষ করিতেছে; অপরদিকে পাকিস্তানের ভৌগলিক অবস্থান ও রাষ্ট্রীয় ক্ষমতার সুযোগ গ্রহণ করিয়া এই বিশেষ মহলই পশ্চিম পাকিস্তানের স্বার্থের নামে অর্থনৈতিক বৈষম্যের পাহাড় গড়িয়া পূর্ব পাকিস্তানে অবাধ শোষণ চালাইয়া যাইতেছে। ফলে একদিকে পূর্ব পাকিস্তানী জনসাধারণ সর্বহারায় পরিণত হইতেছে, অপরদিকে জুলুমের বিরুদ্ধে পূর্ব পাকিস্তানীদের প্রতিবাদ সম্পর্কে পশ্চিম পাকিস্তানে মারাত্মক ভুলবৃদ্ধাবৃষ্টি ও তিক্ততার সৃষ্টি হইতেছে। পূর্ব পাকিস্তানে স্থায়ীভাবে অবাধ শোষণ চালাইয়া যাইবার উদ্দেশ্যে এই বিশেষ মহল ঐক্য ও সংহতির জিগীর তুলিয়া পূর্ব পাকিস্তানকে সামাজিক, রাজনৈতিক, অর্থনৈতিক ও প্রতিরক্ষা ব্যবস্থার ব্যাপারে

সম্পূর্ণ পদু করিয়া রাখিয়াছে। বিগত আঠার বৎসর-ব্যাপী আবেদন নিবেদন ও আন্দোলনের মাধ্যমে উক্ত মহলকে বোধগম্য কারণেই বাস্তব অবস্থা উপলব্ধি করিতে সম্মত করান সম্ভব হয় নাই। বরং নানারূপ সূক্ষ্ম কৌশলে ইহারা উভয় অঞ্চলের জনসাধারণের মনোবিস্ত্রান্তি ও বৈরীভাব সৃষ্টির প্রয়াস পাইয়া চলিয়াছে।

সাম্প্রতিক পাক-ভারত যুদ্ধের ফলে দেশের প্রকৃত অবস্থা, বিশেষ করিয়া পূর্ব পাকিস্তানীদের নাজুক অবস্থা, সুস্পষ্টরূপে প্রতিভাত হইয়াছে এবং দেশের সংহতি, নিরাপত্তা ও পূর্ব পাকিস্তানের ব্যাপারে সবল কেন্দ্রীয় শক্তির কার্যকারিতার প্রোগানীকরণের অসারতাও প্রমাণিত হইয়াছে। পাকিস্তানের কোন মঙ্গলকামীকে, বিশেষভাবে পূর্ব পাকিস্তানের অধিকার-বঞ্চিত অসহায় জনসাধারণকে, আর সস্তা বুলিতে ধোকা দেওয়া চলিবে না। তাঁহারা আজ দেশের প্রকৃত সংহতি, নিরাপত্তা, শক্তি, উন্নতি ও অগ্রগতির সঠিক পন্থা নিরূপণ ও আশু বাস্তবায়নের দাবী করেন।

পাকিস্তানের দুইটি অঞ্চলের ভৌগোলিক অবস্থান-সম্মত প্রাশ্নে বিগত আঠার বৎসরব্যাপী সঞ্চিত প্রজ্ঞা ও সাম্প্রতিক পাক-ভারত যুদ্ধের শিক্ষার আলোকে বিচার করিলে শেখ মুজিবুর রহমান সাহেবের ছয়-দফা কর্মসূচী উপরে উল্লেখিত গণদাবীর প্রাশ্নে এক বাস্তব, সূচু ও কার্যকরী উত্তর। রাষ্ট্রীয় কাঠামোতে এই ছয়-দফা কর্মসূচীর প্রতিফলন উভয় অঞ্চলের জনসাধারণের দৈমিত্তিক কল্যাণ, প্রকৃত সংহতি ও কার্যকরী নিরাপত্তা বিধান করিবে বলিয়া সকল বাস্তব চিন্তাশীল মহলের বিশ্বাস। এই কর্ম-সূচীতে সামাজিক, রাজনৈতিক, অর্থনৈতিক ও প্রতিরক্ষা প্রভৃতি অপরিহার্য মূল বিষয়ে পূর্ব পাকিস্তানকে স্বয়ংসম্পূর্ণ করিবার বাস্তব ও কার্যকরী

ব্যবস্থার সুস্পষ্ট নির্দেশ রহিয়াছে। এই ব্যবস্থা গৃহীত হইলে বর্তমানে নাজুক পূর্ব পাকিস্তান সকল বিষয়ে সবল ও শক্তিশালী হইয়া সারা পাকিস্তানকেই অধিক শক্তিশালী ও সুসংহত করিবে এবং উভয় অঞ্চল সমতালে অগ্রসর হইয়া যে কোন চ্যালেঞ্জের মোকাবেলা করিতে সক্ষম হইবে।

শেখ সাহেবের ছয়-দফা কর্ম-সূচী প্রকাশ পাইবার সঙ্গে সঙ্গে চিরাচরিত নিয়ম অনুসারে এক বিশেষ মহল সন্নিবেশিত চঞ্চল হইয়া পড়িয়াছে। সামগ্রিকভাবে পাকিস্তানকে ভালবাসেন এবং উভয় অঞ্চলের জনসাধারণের মঙ্গল ও নিরাপত্তা কামনা করেন এমন কেহ এই কর্মসূচীর পাইকারী বিরোধিতা করিতে পারেন ইহা আমি বিশ্বাস করিনা। তবে কায়ুমী স্বার্থবাদী মহল ও তাহাদের অনুগতদের কথা আলেদা। এই শ্রেণীর লোকেরা নিজেদের স্বার্থ নিহিত নাই এমন কোন ভাল কর্ম-সূচীকে কখনও সমর্থন দিয়াছে তাহার নজীর বিশ্ব ইতিহাসে নাই, বরং নিজ স্বার্থের পরিপন্থী হইলে ইহারা যে মরিয়া হইয়া উহার বিরোধিতা করিয়া থাকে তাহার দৃষ্টান্ত বহুল পরিমাণে বর্তমান। তাই আমি শেখ সাহেবের ছয়-দফা কর্ম-সূচী বস্তুনিষ্ঠভাবে বিচার করিয়া দেখিবার জন্য সাধারণ মানবাধিকারে আস্থাভান সকল মহলের প্রতি আবেদন জানাইতেছি। আমি দৃঢ়ভাবে বিশ্বাস করি যে, এই কর্ম-সূচীর ভিত্তিতেই পূর্ব পাকিস্তানে বসবাসকারী পাকিস্তানের জনসংখ্যার ৫৬%ভাগ অধিবাসী প্রকৃত স্বাধীনতা ও অর্থনৈতিক মুক্তির সন্ধান পাইবেন এবং তাহাদের সুপ্ত শক্তির বিকাশ সাধন করিয়া পূর্ব পাকিস্তানকে সকল বিষয়ে সুদৃঢ় তথা পাকিস্তানকে আরও সুসংহত ও শক্তিশালী করিতে সক্ষম হইবেন।

এই প্রসঙ্গে পশ্চিম পাকিস্তানী ভাইদের কাছে আমার আরজ
স্বার্থসংশ্লিষ্ট মহলের উদ্দেশ্যমূলক প্রচারণায় বিভ্রান্ত না হইয়া, তাহারা
যেন পূর্ব পাকিস্তানবাসীর জীবন-মরণ সমস্যাগুলি বাস্তবের আলোকে
বিচার করিয়া দেখেন। শেখ মুজিবুর রহমান সাহেবের ছয়-দফা
কর্ম-সূচী পশ্চিম পাকিস্তানের স্বার্থবিরোধী কোন কর্ম-সূচী নহে।
একজন সাধারণ পূর্ব পাকিস্তানীর ন্যায় পশ্চিম পাকিস্তানী ভাইগণও
পাকিস্তানের উন্নতি, অগ্রগতি, সংহতি ও নিরাপত্তার অর্থে
সংখ্যাগরিষ্ঠ পূর্ব পাকিস্তানের কথাও ভাবেন। তাই পূর্ব পাকিস্তানকে
সকল বিষয়ে শক্তিশালী করিবার দাবী উঠিলে কায়ুমী স্বার্থবাদী
মহলের মত আতঙ্কিত না হইয়া যৌক্তিকতার ভিত্তিতে তাহারা
এই দাবীর প্রতি সমর্থন দিবেন ইহাই স্বাভাবিক ও আমি ইহাই
বিশ্বাস করি।

তাজ উদ্দীন আহমদ

সাংগঠনিক সম্পাদক,

পূর্ব পাকিস্তান আওয়ামী লীগ।

ভারতের সাথে বিগত সত্তের দিনের যুদ্ধের অভিজ্ঞতার কথা স্মরণ রেখে জনগণের বৃহত্তর স্বার্থে দেশের শাসনতান্ত্রিক কাঠামো সম্পর্কে আজ নূতন-ভাবে চিন্তা করে দেখা অত্যাবশ্যক হয়ে দাঁড়িয়েছে। যুদ্ধকালীন পরিস্থিতিতে শাসনকার্য নির্বাহের ক্ষেত্রে বাস্তব যে সব অগ্রবিধা দেখা দিয়েছিল তার পরিশ্রেক্ষিতেই এই প্রশ্নটির গুরুত্ব আরও বৃদ্ধি পেয়েছে। এ কথা আজ আর অস্বীকার করবার উপায় নেই যে, জাতীয় সংহতি অটুট রাখার ব্যাপারে পূর্ব পাকিস্তানের জনগণের অগাঢ় আন্তরিকতা ও দৃঢ় সংকল্পই দেশকে এই অস্বাভাবিক জরুরী অবস্থাতেও চরম বিশৃঙ্খলার হাত হতে রক্ষা করেছে।

এই অবস্থার আলোকে সমগ্র পরিস্থিতি বিবেচনা করে পাকিস্তানের দু'টি অংশ যাতে ভবিষ্যতে আরও সুসংহত একক রাজনৈতিক সত্তা হিসাবে পরিগণিত হতে পারে এই সংক্ষিপ্ত ঐশত্বাধারটির লক্ষ্য তা-ই। এই লক্ষ্য সামনে রেখেই আমি দেশবাসী জনসাধারণ ও রাষ্ট্রের আজিকার কর্ণধারদের কাছে নিম্নলিখিত ছয়-দফা কর্মসূচী পেশ করছি।

শেখ মুজিবুর রহমান

সাধারণ সম্পাদক,

পূর্ব পাকিস্তান আওয়ামী লীগ



প্রস্তাব—১

শাসনতান্ত্রিক কাঠামো ও রাষ্ট্রীয় প্রকৃতি :

দেশের শাসনতান্ত্রিক কাঠামো এমনি হতে হবে যেখানে পাকিস্তান হবে একটি ফেডারেশনভিত্তিক

রাষ্ট্রসংঘ এবং তার ভিত্তি হবে লাহোর প্রস্তাব।
সরকার হবে পার্লামেন্টারী ধরনের। আইন পরিষদের
(Legislatures) ক্ষমতা হবে সার্বভৌম। এবং এই
পরিষদও নির্বাচিত হবে সার্বজনীন ভোটাধিকারের
ভিত্তিতে জনসাধারণের সরাসরি ভোটে।



প্রস্তাব—২

কেন্দ্রীয় সরকারের ক্ষমতা :

কেন্দ্রীয় (ফেডারেল) সরকারের ক্ষমতা কেবল
মাত্র ছ'টি ক্ষেত্রেই সীমাবদ্ধ থাকবে—যথা, দেশরক্ষা
ও বৈদেশিক নীতি। অবশিষ্ট সকল বিষয়ে
অঙ্গ-রাষ্ট্রগুলির ক্ষমতা থাকবে নিরঙ্কুশ।



প্রস্তাব—৩

মুদ্রা বা অর্থ-সম্বন্ধীয় ক্ষমতা :

মুদ্রার ব্যাপারে নিম্নলিখিত ছ'টির যে কোন একটি
প্রস্তাব গ্রহণ করা চলতে পারে :—

(ক) সমগ্র দেশের জন্তে ছ'টি পৃথক, অথচ
অবাধে বিনিময়যোগ্য মুদ্রা চালু থাকবে।

অথবা

(খ) বর্তমান নিয়মে সমগ্র দেশের জন্তে কেবল
মাত্র একটি মুদ্রাই চালু থাকতে পারে।

তবে সেক্ষেত্রে শাসনতন্ত্রে এমন ফলপ্রসূ

ব্যবস্থা রাখতে হবে যাতে করে পূর্ব-পাকিস্তান থেকে পশ্চিম পাকিস্তানে মূলধন পাচারের পথ বন্ধ হয়। এক্ষেত্রে পূর্ব পাকিস্তানের জন্ত পৃথক ব্যাঙ্ক রিজার্ভেরও পত্তন করতে হবে এবং পূর্ব পাকিস্তানের জন্ত পৃথক আর্থিক বা অর্থবিষয়ক নীতি প্রবর্তন করতে হবে।



প্রস্তাব—৪

রাজস্ব, কর, বা শুদ্ধ সম্বন্ধীয় ক্ষমতা :

ফেডারেশনের অঙ্গরাষ্ট্রগুলির কর বা শুদ্ধ ধার্যের ব্যাপারে সার্বভৌম ক্ষমতা থাকবে। কেন্দ্রীয় সরকারের কোনরূপ কর ধার্যের ক্ষমতা থাকবে না। তবে প্রয়োজনীয় ব্যয় নির্বাহের জন্ত অঙ্গ-রাষ্ট্রীয় রাজস্বের একটি অংশ কেন্দ্রীয় সরকারের প্রাপ্য হবে। অঙ্গরাষ্ট্রগুলির সবরকমের করের শতকরা একই হারে আদায়কৃত অংশ নিয়ে কেন্দ্রীয় সরকারের তহবিল গঠিত হবে।



প্রস্তাব—৫

বৈদেশিক বানিজ্য বিষয়ক ক্ষমতা :

(ক) ফেডারেশনভুক্ত প্রতিটি রাষ্ট্রের বহির্বানিজ্যের পৃথক হিসাব রক্ষা করতে হবে।

- (খ) বহির্বানিজ্যের মাধ্যমে অর্জিত বৈদেশিক মুদ্রা অঙ্গরাষ্ট্রগুলির এক্তিয়ারাধীন থাকবে।
- (গ) কেন্দ্রের জন্ত প্রয়োজনীয় বৈদেশিক মুদ্রার চাহিদা সমান হারে অথবা সর্বসম্মত কোন হারে অঙ্গরাষ্ট্রগুলিই মিটাবে।
- (ঘ) অঙ্গ-রাষ্ট্রগুলির মধ্যে দেশজ অব্যাদি চলাচলের ক্ষেত্রে শুক বা কর জাতীয় কোন বাধা-নিষেধ থাকবে না।
- (ঙ) শাসনতন্ত্রে অঙ্গরাষ্ট্রগুলিকে বিদেশে নিজ নিজ বানিজ্যিক প্রতিনিধি প্রেরণ এবং স্বস্বার্থে বানিজ্যিক চুক্তি সম্পাদনের ক্ষমতা দিতে হবে।



প্রস্তাব—৬

আঞ্চলিক সেনাবাহিনী গঠনের ক্ষমতা :

আঞ্চলিক সংহতি ও শাসনতন্ত্র রক্ষার জন্ত শাসনতন্ত্রে অঙ্গ-রাষ্ট্রগুলিকে স্বীয় কর্তৃত্বাধীনে আধা সামরিক বা আঞ্চলিক সেনাবাহিনী গঠন ও রাখার ক্ষমতা দিতে হবে।

মুহুরুল ইসলাম কর্তৃক পূর্ব-পাকিস্তান আওয়ামী লীগের পক্ষে
১৫ নং পুরানা পল্টন ঢাকা হইতে প্রকাশিত—এবং
সেগুনবাগাম প্রেস, ১১৩, সেগুন বাগান,
ঢাকা হইতে মুদ্রিত। ৩৭/২/৬৬

মূল্য প্রতি কপি ২৫ পয়সা।

ANNEXE V

A/RES/25/2625 (UN General Assembly)

Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations

Note:

only the relevant parts of the Resolution concerning the right of self-determination of peoples is annexed here.

Full text of the Resolution can be downloaded from ICSF-E-Library using this direct link:

http://icsforum.org/library/files/328_UNGeneralAssembly.pdf

Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations

(the relevant part concerning the right of self-determination of peoples)

...

Having considered the principles of international law relating to friendly relations and co-operation among States,

1. Solemnly proclaims the following principles:

...

The principle of equal rights and self-determination of peoples

By virtue of the principle of equal rights and self-determination of peoples enshrined in the [Charter of the United Nations](#), all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter.

Every State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle, in order:

- a. To promote friendly relations and co-operation among States; and
- b. To bring a speedy end to colonialism, having due regard to the freely expressed will of the peoples concerned;

and bearing in mind that subjection of peoples to alien subjugation, domination and exploitation constitutes a violation of the principle, as well as a denial of fundamental human rights, and is contrary to the Charter.

Every State has the duty to promote through joint and separate action universal respect for and observance of human rights and fundamental freedoms in accordance with the Charter.

The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people.

Every State has the duty to refrain from any forcible action which deprives peoples referred to above in the elaboration of the present principle of their right to self-determination and freedom and independence. In their actions against, and resistance to, such forcible action in pursuit of the exercise of their right to self-determination, such peoples are entitled to seek and to receive support in accordance with the purposes and principles of the Charter.

The territory of a colony or other Non-Self-Governing Territory has, under the Charter, a status separate and distinct from the territory of the State administering it; and such separate and distinct status under the Charter shall exist until the people of the colony or Non-Self-Governing Territory have exercised their right of self-determination in accordance with the Charter, and particularly its purposes and principles.

Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.

Every State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State or country.

ANNEXE VI

Additional Protocol to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.

Note:

only the relevant parts of the Protocol is annexed here. Full-text of the document can be accessed here: <http://www.icrc.org/ihl.nsf/FULL/470?OpenDocument>

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.

PREAMBLE.

The High Contracting Parties,

Proclaiming their earnest wish to see peace prevail among peoples,

Recalling that every State has the duty, in conformity with the Charter of the United Nations, to refrain in its international relations from the threat or use of force against the sovereignty, territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

Believing it necessary nevertheless to reaffirm and develop the provisions protecting the victims of armed conflicts and to supplement measures intended to reinforce their application,

Expressing their conviction that nothing in this Protocol or in the Geneva Conventions of 12 August 1949 can be construed as legitimizing or authorizing any act of aggression or any other use of force inconsistent with the Charter of the United Nations,

Reaffirming further that the provisions of the Geneva Conventions of 12 August 1949 and of this Protocol must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the Parties to the conflict,

Have agreed on the following:

PART I. GENERAL PROVISIONS

Art 1. General principles and scope of application

...

4. The situations referred to in the preceding paragraph include armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.