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**Partnership with Transnational Networks for a Gender Sensitive Justice
Mechanism**

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When I was telling these two [Birangona] that three Korean women had asked for apologies from Japan, we were all thinking, 'Our poor country! We can't even ask for justice!' (Maleka Khan, ASK interview, 2000).

This paper begins with a puzzle: Why, after more than a decade of transnational feminist activism on post-conflict situations, is there no coordinated feminist action around the Birangona in Bangladesh? Why is the issue of rape during 1971 still relegated largely to a statistical number in general studies on rape? What is it about the women's movement in Bangladesh – that permits continued silence about the events of 1971.

After my fieldwork was completed between 1999-2002, I found myself asking why, after emerging from such a terrible war, Bangladesh as a nation demonstrated no consistent interest in digging into the details of its own emergence into nationhood. I will examine what the Bangladesh feminist movement can learn from other international and regional feminist movements around the world, in order to respond more effectively in terms of achieving women's rights. I will also examine how understanding the experience of women in post-1971 Bangladesh could help to design more-responsible methods to addressing the needs of women in conflict zones, in Bangladesh and beyond.

This paper begins with a brief examination of the Bangladesh women's movement, which in turn requires revisiting the Indian women's movement. Then it moves on to how transnational feminist networking can contribute to the women's movement in Bangladesh. Finally, it concludes with a re-visioning of strategies for 'breaking the silence' in Bangladesh; allowing the Bangladesh experience to contribute to feminist knowledge around women and war. I shall also explore possible strategies for transformative feminist politics around 1971, including a hybrid mechanism that involves a truth and reconciliation commission (TRC) and a war crimes tribunal

Moving on to the transnational arena, this shared regional dialogue also will gain significantly from exchanges with international feminist spheres. A relevant example is the feminist networking that led to the Yugoslav and Rwandan war-crimes trials, where rape was prosecuted as a war crime. (One of the most notable achievements of the Hague Tribunal for the Former Yugoslavia was identifying and stigmatizing rape as a war crime. For instance, rape had not featured in any of the indictments of Nazi war criminals. Article 27 of the Geneva Convention IV formally outlawed the rape of civilians, but it was signally omitted from the 'grave breaches' regime in Article 147. ** (also featured in the 1973 Tribunal)

I shall investigate what the Bangladeshi feminist movement can learn from the transnational movement and shall take the achievement of the transnational feminist movements to the next level of networking, which in turn will encourage participants of women's movements both locally and globally to address socio-political biases in gender relations.

The paper shows that, for Bangladeshis, 1971 does not exist merely in the past, nor even within a particular timeframe. The 'excesses'¹, in the form of genocide committed by the

Pakistan Army remain very real in the Bangladeshi psyche. Furthermore, the absence of any expression of regret from the perpetrators and the denial of justice to the victims have deepened the scars of 1971, and have had implications for the ways in which the Bangladeshi national identity has been constructed. The unresolved nature of these hurts means that the past continues to haunt the present.

Women's movements, regional and national

Although the policymakers felt that silence about the incidence of war rape was necessary to erase the stigma suffered by the women, ironically this silence helped reinforce that stigma. Today the Bangladesh women's movement could work to create public awareness on this issue, and could demand justice and reparations for the women, particularly if it followed the approach used by the global women's movements. It could also provide a useful understanding about how to revise the ways in which assistance is delivered to the women and their families.

Despite holding fragmented and dispersed views, Bangladeshi women's organizations have in the past successfully raised numerous feminist issues. As political activists, Bengali women contributed to the anti-colonial nationalist struggle for the independence of the subcontinent. This experience of social and political activism continued to shape the character of the Bangladeshi feminist movement after 1971.

The Ain-O-Shalish Kendro, a Bangladeshi human-rights organization, took the initiative to document women's testimonies from the 1971 Bangladesh Liberation War. This was a first step towards examining the gendered construction of the Bangladeshi national identity.

During and before 1971, many Muslim Bengali women participated as activists in their country's national movement, many taking to the streets in active resistance. Their unique cultural identity became their symbol, and the use of the phrase 'Muslim Bengali woman' had a new political rather than religious connotation. They demonstrated that Bengali culture was uniquely different from West Pakistani traditions; that Bengalis shared similar cultural values irrespective of whether they were Hindu or Muslim; and that Bengali women were more liberated than West Pakistani women.

The political activism of these women played a crucial role in achieving independence for Bangladesh. However, after their country was born, these women were encouraged to go back to their traditional roles as wives, mothers and daughters generally as protected beings. Moreover, the national movement was not concerned with women's actual emancipation, and thus the Liberation War failed to achieve freedom for all its citizens.

Since the Liberation War, Bangladesh has been ruled by a Bengali ruling class comprising an unstable class alliance of an underdeveloped bourgeoisie, the military and the bureaucracy. Increased violence against women in both the public and private spheres has helped to develop a greater awareness of the position of women in Bangladesh and increased participation in transnational feminist programmes.

In Bangladesh, family law is largely governed by religion, and is discriminatory. Accordingly, men control women's bodies, their sexuality and their inheritance; men are also able to practice polygamy, exercise guardianship over female dependants, or divorce their wives.

Ironically, the Liberation War did much to break down the concept of purdah. During both the anti-colonial movement against the British and the Bangladesh national liberation movement, Muslim Bengali women appeared in public and participated in protests, demonstrations and other forms of political campaigning for the freedom of their land. Eventually, a group of young women activists associated with leftist organizations, approached the Awami League formed a joint women's action committee for organizing protests by the wives and mothers of political prisoners for their release. This eventually led to the formation of the Mahila Parishad now the largest and most important women's organization in Bangladesh.

The 1970s also saw the government begin to pay attention to gender issues, albeit in a relatively unhealthy way. The population policy at the time targeted women for contraception even while ignoring their health needs. In the long run, this focus ended up creating new abuse of women's health rights.

The lifting of the ban on religious extremist groups during the 1980s allowed the religious right to challenge the women's progressive movement. The impetus that this created among several sections of society, however, allowed some good to come of this move. Cautioned by the drastic curtailment of women's rights in Iran and Pakistan that accompanied the rise of Islamist political power the Bangladesh women's movement sought to build public opinion in support of secular politics. Interestingly, in order to serve the interests of their development policies, successive governments encouraged dialogue and the sharing of views and information with women's groups in other countries.

Transnational networking

The networking and interaction of non-state actors are becoming increasingly visible in international politics. Transnational networking does not conform to a model of cooperation based on functional contracts among states, but cross national boundaries and recognize the importance of non-state actors who operate transnationally.

Such transnational networks have several important features. First, by building new links among actors in civil societies, international organizations and states, such networks multiply the opportunities for dialogue and information exchange. Second, these networks are able to engage non-traditional international actors to mobilize information strategically, helping to bring new issues to the forefront of international discussion and persuade governments to act on issues. Third, transnational networks frame issues in ways that can make them more comprehensible and acceptable to target audiences.

Women's activism and transnational coalitions have increased with a worldwide rise of intolerance, violence and suffering of marginalized groups. At the same time, genocidal

conflicts in Rwanda, Bosnia and Kosovo have put civilian security on the front page of newspapers, with such conflicts rekindling interest in and recasting questions of resistance.

Such transnational dialogues have proven to be effective tools for forming strong coalitions of feminist scholars and activists across religious, ethnic and political divides. These coalitions are often able to assess the impact of armed conflict on women, work towards building peace in local communities, contribute to the overall knowledge about gendered approaches to peace-building, and provide information about local initiatives to develop a comparative analysis of feminist strategies.

With these examples in mind, I propose that Bangladesh's women's movements use the objectives of such transnational movements and coalitions to seek redress for the women who have suffered due to 1971-related violence. The strategies, activities and thoughts developed for this type of movement and networking are not passive or self-sacrificing. Instead, such dialogues would need to move beyond spinning theories of abstract relationships between women and war – to lead to a place of lived and revisited reality that grows, changes and transforms within a multi-faceted society.

To illustrate this let us look briefly at some examples of strategies against violence that have resulted from successful transnational networking and dialogues. While the Vienna Tribunal of 1993 addressed five thematic issues the Tokyo Tribunal of 2000 focused on rape as a war crime, and served as a platform to address Japanese crimes against women during World War II. Both tribunals, however, demonstrate that wherever it occurs, war has a severe and dramatic impact on women's issues. Two recent examples of people's tribunals that received comparatively little media attention – the Korean People's Tribunal and the East Timorese Tribunal – are significant examples of transnational networking.

In June 1993, a Global Tribunal on Violations of Women's Human Rights was held in Vienna, organized by a feminist coalition called the Global Campaign for Women's Human Rights. This process addressed five interconnected themes: human-rights abuse in the family, war crimes against women, violations of women's bodily integrity, socio-economic violations of women's human rights, and gender-based political persecution and discrimination.

In December 2000, the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery was convened through the efforts of non-governmental organizations throughout Asia, to ensure some form of accountability for the crimes committed against the aging former 'comfort women'. The People's Tribunal aimed to create public awareness of the horror of the Japanese military's institutionalization of rape, sexual slavery, trafficking, torture and other forms of sexual violence inflicted on an estimated minimum 200,000 girls and women. A constant theme throughout the testimony was that the pain of women who were the victims of sexual violence was exacerbated by their rejection on returning to their own communities. The courageous revelations of the survivors encouraged many more survivors throughout the Asia-Pacific region to speak

out. By the early 1990s, some of the Asian women had begun to break almost five decades of painful silence, to demand an apology and compensation for the atrocities they suffered as sexual slaves of the Japanese military during the conflicts of the 1930s and 1940s in the Asia-Pacific region.

In July 2001, international grassroots groups held a People's War Crimes Tribunal in New York against US military wartime massacres in Korea. This Tribunal was co-organized by the Korea Truth Commission (KTC), the International Action Center (IAC) and the Veterans for Peace (VFP), and was the result of a people's investigation into the role of the US-led military in massacres of civilians during the Korean War.

A more recent and ongoing example of transnational networking is the Asia-Pacific Coalition for East Timor (APCET). One of its current campaigns is the creation of an international people's tribunal 'to seek justice for East Timorese victims of human rights violations from the invasion in 1975 up to the post-referendum terror in 1999'. This tribunal would be similar in design to the Tokyo proceedings on the comfort women.

These examples of transnational networking towards creating successful tribunals may rekindle the hope for Bangladeshi women activists and that they could still demand justice for the atrocities committed by the Pakistan Army and its collaborators in 1971.

Towards a gender sensitive justice mechanism

Given the examples outlined above the question then is, whether transnational networking about violence against women in war support models or strategies for breaking the silence in Bangladesh.

Three key conditions would facilitate transnational feminist activism and networking to bring about effective changes in the behaviour of the state of Bangladesh. First, the political context would need to be permissive, so that the government would not vehemently oppose international networking and human-rights efforts. Second, a significant element in Bangladesh's ruling coalition would need to cooperate, even at the cost of party affiliation, and to be more committed towards the issues of peace and justice. Third, local human-rights and justice-seeking groups would need to be organized and be capable of forming links with their international colleagues.

Three important factors contributed to the intensification of the current justice-seeking movement. Firstly, civil society groups have intensified their demands for the trial of war criminals. It was perceived that the interim military-backed government would be more sympathetic to the justice-seeking movement. This strategic framing gained momentum when the Sector Commanders Forum publicly pressed the interim regime for prosecution of the war criminals.

Secondly, the normative values attached to the voter awareness campaigns by various agencies and civil society in 2008 heavily focused on democratisation and justice mechanisms and approach, contributing to the Awami League's pledge to address the war crimes issue if they returned to power. Some noteworthy steps were the voter education

program, media activism highlighting the corruption and nepotism of politicians; advocacy by international human rights watchdogs and a strong interest in the election shown by Bangladeshi expatriates, fuelled by write-ups in blogs generated both outside and inside the country.

Recent demands for trials of war crimes have been somewhat blinkered and inward-looking. The interest groups are primarily interested in prosecuting the most infamous collaborators of the Pakistani regime. In addition, there is the age-old tension between religious and secular nationalist politics, which has not been sufficiently addressed. While the justice-seeking movement attracts a more moderately religious populace, if not always secular, in many instances it also directly confronts the dogma ridden factions of domestic political space. For example, Jama'at-e-Islami, has been nervous about the recent movement as some of its central members would be implicated.

The formation of such a transnational network would help to build political capital for women's movements within Bangladesh. Such networking would have several benefits:

- First, activists within Bangladesh are vulnerable to political shifts, with successive regimes compromising their work. Engaging with international colleagues could provide them some protection from the state to pursue their projects.
- Second, in the immediate aftermath of the war a number of international aid organizations (e.g., the International Rescue Committee, the International Planned Parenthood Federation and the UN High Commissioner for Refugees) worked in Bangladesh and amassed invaluable archival records. A transnational network could therefore lead to an internationally coordinated fact-finding mission to uncover the narratives of Birangona women from 1971.
- Third, additional resources (e.g., the expertise and skills of women activists worldwide) could assist with training and workshops at the national level.
- Finally, this network could hold governments accountable for not addressing the needs of victims. It could strengthen the demands for truth and justice, and demonstrate to the victims that they are no longer suffering their trauma alone.

How can transnational networking assist the Bangladeshi women's movement? By networking with feminists worldwide, Bangladeshi human-rights activists would have the opportunity to establish a tribunal that could recommence documentation of the gendered pattern of violence in 1971. Moreover, such a process could enable women's organizations and other rights groups to pressure the Bangladeshi state to engage in debate about a nationalist and gendered construction of the nation-state.

One of the central tenets of a war crimes tribunal would be to challenge the accuracy of historical accounts, and to make the stories of the victims visible. As with the members of other victimized communities, Bangladeshis in general are quite clear about the kinds of atrocities committed and the identities of the perpetrators. Thus, the importance of a tribunal in the case of Bangladesh would be more about publicly sharing and communicating the experience of women survivors. While discussing the Balkan trials, Geoffrey Robertson reminds us, 'the systematic rape of an estimated 200,000 Bengali

women by Pakistani soldiers in 1971 went entirely unpunished'. It is crucial that there is public acknowledgement of the grave injustices committed in the past, so that the perpetrators of these acts are made to take full responsibility for them.

Importantly, the tribunal would also need to include human-rights activists throughout the subcontinent. Without the support of Pakistan and India, after all, it would not be possible to unearth the truth of 1971, let alone recognize it. Similar to the Japanese feminists who assisted in the People's Tribunal, Pakistani feminists would be important colleagues in this tribunal. In addition, an important incipient step in this regard may be to think about a truth commission to document and publish a report of the Partition riots of 1947. Indian feminists have already demanded a truth commission to explore past riots a demand that is vigorously renewed every time the Hindu-Muslim identity is challenged.

During the course of the justice seeking process, there would be several large hurdles to overcome. After the war, an extremely small number of Bangladeshi women came forward to share their rape experiences. This reluctance to discuss the trauma surrounding rape is not surprising. Wherever they live in the world, raped women generally do not want to discuss rape experiences. In the first place, it is simply very difficult for women to speak about their own experiences of rape. Second, the men of the community often feel powerless over the fact that they were unable to protect their women.

There are additional obstacles to the creation of a Bangladesh war crimes tribunal. No official consensus currently exists between Bangladesh and Pakistan about the 1971 war. As a first step, the tribunal would naturally need to document past atrocities, but this itself presents difficulties: A people's Tribunal formed in 1999 (?) as an expression of solidarity among members of Bangladesh's cultural elite, while symbolically proved to be important, failed due to conflicting interests. Among these conflicting interests was the fear that Bengali collaborators now in powerful positions in the government, the bureaucracy and in the elite class would interfere with the functioning of the tribunal, and that people would be too afraid to come before it to tell their stories.

Another complexity is that of privacy for the rape survivors who do come forward. As mentioned earlier, women in Bangladesh who had previously agreed to discuss their experiences before the courts received no protection from the media. As it turned out, the women were unable to speak, but publication of photographs of them made it impossible for them to return to their previous lives. To ensure that this insensitivity does not occur again, a woman-friendly tribunal and a truth and reconciliation mechanism is needed.

In light of these complexities, a major strategic concern for the women's movement in Bangladesh will be resisting attempts to define feminist organizing as antithetical to nationalism. Feminist constructions of national identities must deal with multiple versions of history, where the dominant and marginalized versions overlay each other.

In addition, one possible approach to getting women to feel comfortable opening up about their experiences could be by offering confidentiality to victims who did not want their names publicized.

Nonetheless, the tribunal and the TRC would serve several purposes. To sum up, the base motives must be:

- To provide a platform for women to share their experiences.
- To recast questions about state responsibility and accountability. Although many Bangladeshis believe that in 1971 senior army officers used rape and sexual violence in a pre-planned and organized manner in order to terrorize the population of East Pakistan, successive Pakistani governments have denied this. An investigation into this matter may lead to the Pakistani state acknowledging the truth of this, and supplying a long-due apology to the rape survivors and their families.
- To demonstrate the failure of the Bangladeshi state to act in the best interests of its citizens after the war. Because of the tribunal's neutrality and commitment to women's human rights, Bangladeshis themselves will also be required to remember the retaliatory sexual violence committed against non-Bengalis after the war.
- To remove the shrouds of silence and hidden history, and help to rewrite the textbooks in order to present an accurate and comprehensive gender-sensitive version of history, which will be reflected in the future policies, educational material and reparations made to assist the survivors.

In this paper, I have explained the type of power, strategy and resources the Bangladesh women's movement might adopt to bring attention to the rapes and sexual abuses of 1971. Through a transnational feminist campaign, a hybrid Bangladeshi mechanism would be a tool for providing fuller accounts of the past, and might be able to establish greater accountability among former elites than may be realistically possible by prosecution. It would also help to acknowledge victims and perpetrators of abuse on all sides of the conflict.

There is potent inspiration elsewhere for such a process. The first president of the International Criminal Tribunal for Yugoslavia (ICTY), Antonio Cassese, emphasized the role of the judicial process in countering the concept of collective responsibility: 'Far from being a vehicle of revenge', he clarified, 'the ICTY is an instrument for reconciliation ... If responsibility for the appalling crimes perpetrated in the former Yugoslavia is not attributed to individuals, then whole ethnic and religious groups will be held accountable for these crimes and branded as criminal. In the final analysis, women's experiences need to become more visible through both national and transnational organizing, in such a way that their interests are sustained in ways that are more politically effective.'
