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German Experience with Trials, Justice and Truth after the Nazi-Time

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Thank you for the invitation to the Conference. First let me say, that I'm a lawyer from profession but I work as a legal adviser for a parliamentary group in the German Parliament and I'm also vice-chairman of the Left Party in Germany. There I'm responsible for Human Rights and Home Affairs.

I told you I'm from Germany. And you know we have a complex and controversial history because of the unique mass murder of Jewish people at the base of planned extermination. We know today about that political approach of the whole leadership of the NAZI-regime agreed on at the so called "Wannsee-Conference". That's why Germans are obliged to stick to their responsibility to prevent war, fascism und genocide. And Germans shall take also responsibility to deal our own experience with others about our way to punish the perpetrators with the attempt to find and to create truth and justice. And let me stress: we are not finished yet.

Helmut Scholz spoke last year about the Nuremberg Trial and its implications for dealing with the formerly never thinkable dimensions of genocide. And this dimension of a planned industrial like mass murder remains non comparable. But it opened in the time of modern international law the chance to convict some perpetrators for what they did, for their murder.

I think it became possible only because the trial was supported and organized by the Allies of all parties of the Anti-Hitler coalition. I stress this because we know that some of the perpetrators came back to political influence and have got political, economic and even juridical positions. It is not the case and opportunity to go further in detail here about the political and juridical relationship about the reasons of how to deal with the crimes and the perpetrators soon after the war and the beginning Cold War and the political instrumentalization of the Hitler regime in the East West bloc confrontation. But I want to stress that there were differences between East and West Germany. Complicate to judge from

the point of today in particular the task how to deal with the fate of military men, who took part in the crimes of the war, who took part as members of the Wehrmacht (Hitler-army), watchmen in concentration camps etc. The general question remained in the society: who had known about the crimes committed, who resisted to the regime in general or to concrete ordered crimes, and: Who remained silent, closed the eyes... Also in East Germany and GDR perpetrators could come into positions either by lying about their past or by supporting the new power. Despite the constitution and the official politic condemn fascism there was – in the opinion of the government, I'm too young to make an assessment - a necessity to work with former supporters of the Hitler regime as teachers, as policemen or hospital staff or in other fields of the society.

And we are still faced with the situation that perpetrators of the mass murdering and holocaust are discovered who successfully managed to flee the international investigation to countries in Southern or Northern America. And this opens a new fact, which could be interesting for the special case we are discussing here concerning the trial of the genocide in Bangladesh 38 (!) years ago: We have partly the discussion in Germany if the perpetrators are not too old for punishment. To judge about 90 years old men seems to be not in co-relation with the trials... But I want to underline: for that what these people have done you can't be too old for punishment. Crimes against humanity can't be given immunity to criminal prosecution. No limitation– also this is a unique conclusion from the Nuremberg trials

One of the experiences we made was to realize, that it is difficult to speak with Nazis or even military men about the acts they committed. There had been – in particular in West Germany - a chance of opportunity for most of these people “to forget” what they did. It took about 20 years that children began to ask their parents; fathers and mothers, grandfathers and grandmothers about their individual history, about facts and individual responsibility –so: what they had done during the time of Second World War. I guess this is a problem of each society of the various countries who tries to discuss the responsibility of their perpetrators. And I think you have to make a difference between the truth and to find answers about what happened on one side and the legal or juridical answers about what happened and the wish to punish the perpetrators on the other side. The truth is necessary for the future to prevent another violation of human rights. The punishment is necessary for justice. I would like to say that it seems to me very interesting to take a look at South Africa. I would like to propose to start an exchange of views and a discussion about their experience with Members of their commission of truth and reconciliation.

Anyway let's go back to Germany. One of the results of our history is, that we introduced a law that punishes “lying mass murder on Jewish people”. But it helps only a little to fight consequently – in Germany very concrete and unfortunately still very actual- fascists, neo fascists or ignorant about the crimes committed 65 years ago. These kind of people who lied mass murder on Jewish people don't fear a punishment or trial. These people have to fight from the whole society. They have to learn that there is zero tolerance about what they do. The society is absolutely determined to ban that sort of minding and ban any deny of the truth. Let me say that is usual that crime courts in Germany investigate about nazi-crimes and still punish perpetrators.

What is the experience of that German history in my mind. Yes, we need international standards for punishment the violation of human rights. We need an International Court because the violation of human rights is not an issue of Home or Domestic Rights alone. It is an issue for the international community. We need a law that charge violators of Human Rights without any consideration from where they come. That means this international law, this international court must be independent from the interests of the great nations like United States, China, EU, Russia or India– for instance. It must be possible to charge the people who are responsible for violating Human Rights for instance in Guantanamo, East Timor and somewhere else.

The ICC is only a first step to form such an international standard. But we have to be attentive that the ICC doesn't be exploited by the interest of the great nations, don't run in a field of power struggle of the great nation with immunity to perpetrators from the great nations. That's a danger for all the people who fight for international standards for punishment and persecution for violation of human rights.

There were and of course are so many violations of human rights. There is still mass-murder because of political, ethical and religious issues. And I want stress that there are deep social, ethnic, religious and political roots which are linked to the policies carried out in countries which are calling for a general debate also about the own society's past to find truth and justice in the future of this country.

We as politicians have the responsibility to stop that before it starts without war. We as lawyers or people are connect with the law have the responsibility to make sure that every violator of human rights will be charged at a trial with the same rules of charge and defend. And let me stress that I feel in particular a new dimension in these approaches to include also the issue of gender aspects – in particular the support to investigate and to trial the violence against women, massive rapes and murder. This is a special impressive aspects I learned during the past panels. That aspect unfortunately wasn't a big point in Germany.

I guess it is necessary to organize more of such conferences as we are doing here these days in Dhaka (and let me express that your conference has a powerful meaning also for the international community!!!), to discuss our experiences of tribunals against violators of human rights, to help each other to organize tribunals and to fight together for an International Crime Court and Tribunals who are not exploited by political issues far away from fighting against violation of human rights.

Thank you very much.