



[Home](#) » [Under Secretary for Democracy and Global Affairs](#) » [Office of War Crimes Issues](#) » [Releases](#) » [Remarks, Testimony, Speeches](#) » Bangladesh International Crimes Tribunal

Bangladesh International Crimes Tribunal

Remarks

Stephen J. Rapp

Ambassador-at-Large for War Crimes Issues

Dhaka, Bangladesh

November 28, 2011

As prepared for delivery

This is my third visit this year to Bangladesh to learn about your International Crimes Tribunal and to offer ideas to ensure that the trials it holds will be fair and open.

I know of the horrible crimes committed in the country in 1971-- of the hundreds of thousands of victims who were murdered and raped, of the pain inflicted and the property destroyed. The victims of these crimes deserve justice, and those accused of these acts deserve trials where they can test the evidence and present witnesses on their own behalf. Those who are innocent should be found not guilty and be freed. Those who are responsible for these crimes should be found guilty and punished. Given the historic importance of these trials to Bangladesh, the region, and the world, the proceedings should be conducted in a manner that is open and accessible to all.

In March, I made a number of suggestions on how the rules for these trials could be amended to ensure fair and transparent proceedings. Some of these suggestions were incorporated in amendments adopted in June. I regret to say that many were not.

Now the first trial has begun with the opening statements of the prosecution last week, and with witnesses due to begin testifying on December 7.

The focus of my present visit is on how the International Crimes Tribunal will conduct these trials. The statute and the rules are in place; the question now is how they will be interpreted in actual practice. Much can still be accomplished to ensure that justice is done and is seen to be done in these historic proceedings.

First, it is important that the judges, at the first opportunity, define what "crimes against humanity" means. The term "crimes against humanity" has been defined in the statutes and cases of international courts. It has not been defined in Bangladesh. In their charge framing order in the first case, the judges said that they would interpret the statute according to Bangladesh law but look for additional guidance in the decisions of international tribunals. But it is not clear whether the prosecution must prove whether the alleged murders and rapes were committed as part of a widespread and systematic attack against a civilian population; whether they were committed on a racial, religious, or political basis; whether the alleged perpetrators would need to have knowledge of the larger attack. At other courts, the elements of the crimes have been defined by the judges in an early ruling. The same can be done here.

Second, it is important that the same rights be accorded to these accused as are guaranteed to Bangladeshi citizens who are charged with other violent crimes. The Bangladesh constitution and laws provided that this was to be a special court responsible for its own rules and procedures. As the judges have amended the rules to incorporate concepts like the presumption of innocence and proof beyond a reasonable doubt, it is also important that they conduct these trials to ensure that the accused have the same right to consult with their counsel, the same time and ability to prepare their defense, and the same time and ability to challenge the process as they would have in other cases.

Third, while the rules amendments provided for the protection of witnesses, it is important that a system of protection of witnesses be developed in practice and available to both sides. In the first trial, witnesses for the prosecution have already been listed. The defense must file a list of witnesses by December 7. Witness protection measures must be in effect to ensure that those willing to come forth and tell the truth will not be subject to threats and intimidation.

Finally, and most importantly, the process must be accessible to all. It is not easy for members of the public to attend court sessions. Ideally, the trial sessions should be broadcast on television or radio, or weekly reports be aired that would show key testimony, arguments, and rulings. This is being done now in the trials in Cambodia of those alleged to be responsible for the atrocities committed in that country in the 1970s. If this is not possible in Bangladesh, neutral observers should be permitted to follow the trials and produce daily and weekly reports that would be available through the internet and other media.

These trials are of great importance to the victims of these horrible crimes. What happens here will send a message to others who would commit these crimes anywhere in the world that it is possible for a national system to bring those responsible to justice.

I am here because the people of the United States wish to help ensure that this is a process that is fair and transparent. We will continue to work with all those involved in this process to achieve justice in these historic trials.

[Back to Top](#)

The Office of Electronic Information, Bureau of Public Affairs, manages this site as a portal for information from the U.S. State Department. External links to other Internet sites should not be construed as an endorsement of the views or privacy policies contained therein.