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Lead Article

Bangladesh Genocide 1971: Check-up in the Light of UNPG's Definition

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Abstract

The only definition of genocide adopted by the United Nations in 1948 is the one that can be applied in court. On the other hand, it is the only genocide-definition in the world, approved by the highest number of theorists, policymakers, and jurists. All other definitions except this one are basically theoretical and academic. As a result, it is necessary to analyze the 1971 genocide in Bangladesh according to this definition. This article provides a detailed analysis of the genocide in Bangladesh in light of that definition. In this analysis, the mass killing of 1971 in Bangladesh has been established as a justified genocide. This analysis will play a complementary role in the recognition of Bangladesh's genocide in the international academic arena.

Keywords: Genocide, Group Identity, Intent, Perpetrator Politicide, UNPG's Definition.

Introduction

The term 'Genocide' is not as old as the phenomenon of genocide is in that genocide took place from time to time in different civilizations that have been parts of world history over last ten thousand years. From the Stone Age to the end of the Bronze Age, in approximately 1200 BCE, ample evidences of massacre committed by various clans and sects have been discovered¹. The inception of the monarchy of Israel (1020–930 BCE), the inception of the Greek city-state (800 BCE), the Peloponnesian War (431–404 BCE) and the third Punic War between Rome and Carthage (149–146 BCE) are the manifestations of every single kind of massacre².

As humankind started a new journey with the beginning of the Christian era, the incidences of genocide increased manifold. During World War II, numerous genocides were committed

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by both allied and axis powers. In the light of these catastrophic disasters, the term 'genocide' was not only coined but was also codified in 1948 in international law in the aftermath of World War II. As a result, the term 'genocide, became relevant all over the world. Except for some isolated incidents, the history of the Indian subcontinent was largely free of the incidence of genocide. However, the subcontinent first experienced genocide as a result of the massacre of the Bengalees by the Pakistani army in 1971. Both political rhetoric and historical debates followed about the nature of these massacres. To some, the crimes that the Pakistani army and their collaborators committed in the East Pakistan were sheer genocides. On the other, some raised questions about the authenticity of these massacres, let alone genocide. Digging the nature and magnitude of these massacres from an academic point of view can reduce the complexity of these debates. This article is an attempt to explore whether the massacres committed by the Pakistani army can be treated as a 'genocide; in the light of the definition of genocide used by various experts and organizations.

Method

This article mainly uses the content analysis as a method. This method analyzes data from texts and other written sources. Various texts, research reports, articles, encyclopedia, and other printed sources of different theorists and experts on genocide have been used in this article. In particular, books that contain various analysis and interpretations of the definition of genocide are given priority here. The findings have been made by a detailed and academic analysis and cross-checking of the genocide in Bangladesh with the UNPG's definition of genocide.

Genocide as a Term

To distinguish the worst type of human atrocities, the term 'genocide' has been coined. Genocide is not simply death, nor a murder, even not a case of mass killing. Genocide is more than killing or murder and could be treated more than as a crime. If genocide is treated as equivalent to other legal offenses, the intensity of this crime is undermined. The most significant characteristics of genocide are its terminating attempt to completely eradicate a group of people, or the members of the group, purposely selected for their identity³.

Raphael Lemkin (1900–59), a Polish scholar first coined the term in 1944 in his book on Nazi imperialism, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals of Redress*⁴. Lemkin invented the term 'genocide' by combining 'genos' and 'cide', genos means race or people and 'cide' means 'to kill'.

One of the major characteristics of the progress of world civilization is that people are ethnically, racially, culturally, and religiously distinct. In 1947, when Lemkin was involved wholeheartedly in campaigning and mobilizing for the support of the upcoming Genocide Convention of 1948, Pearl Buck, the Nobel laureate of 1938 in literature and firm campaigner of the convention described this human plurality in a letter to Lemkin. He wrote, "Life in our world is enriched by the diversity of cultures and ideas which proceed from variety in racial, national, and religious groups." Lemkin also linked Genocide to the very sustainability of

human civilization, while he propagated the necessity of the Genocide Convention to frame a law against the crime, saying, "we are lacking real moral solidarity in protecting the basic values of our civilization, life and culture. Genocide destroys this 'civilization, life and culture", thus resulting in something different from crime such as usual murder or torture. Murder or torture is associated with the destruction or security of the individuals, but genocide is associated with the destruction of the beauty of the diversity of human civilizations.

Lemkin's Genocide Definition (1944, 1945)

Though Lemkin coined the term Genocide, his views of defining genocide changed for the time being. In 1944 and 1945 he separately narrated two versions of genocide definition. In 1944 he wrote:

By 'genocide' we mean the destruction of a nation or ethnic group. ...It is intended...to signify a coordinated plan of different actions aiming at the destruction ...of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups⁷.

In 1945 he wrote more specifically,

Whoever, while participating in a conspiracy to destroy a national, racial, or religious group, undertakes an attack against life, liberty, or property of members of such groups is guilty of the crime of genocide⁸.

Here the very term 'nation' used by Lemkin is not to be confused with 'nationalism'. Lemkin specified in Axis Rule that a nation "signifies constructive cooperation and original contributions, based upon genuine traditions, genuine culture, and a well-developed national-psychology." The Bangalis are easily identified as a nation according to this explanation. They are an ethnic group too. The pro-Pakistan perpetrators were aiming at destroying their "political and social institutions, of culture, language" and "national feelings" and also at diminishing the "personal security, liberty, health, dignity, and even the lives of the individuals belongings" in 1971. Fitting to the definition of 1945, the Bangalis are the 'national group' "based upon [their] genuine traditions, [and] genuine culture." On the other hand, Hindus of East Pakistan were certainly a 'religious group' and perpetrators vigorously "attack against life, liberty or property of members" of the community in 1971 during the Bangladesh Liberation War. Besides, Buddhist, Christians and some other minority religious believers of East Pakistan were also 'religious groups'.

Genocide Targets

The targets of the perpetrators of the Bangladesh genocide are mainly two groups, namely the Bangalis and the Hindus¹⁰. The Bangalis are used to certain types of food habits, clothing, literature, ethos, folklore, music and arts which make them fully distinct from West Pakistani peoples. Their ethnicity with mix-breed physicality is also distinct from that of the West Pakistanis. Another tool that shapes the nomenclature word 'Bangali' and makes the

Bangalis separate from others, is the Bangla language. Religiously, the Bangalis of East Pakistan is mainly composed of four major religious communities of the world, viz. Muslim, Hindu, Christian, and Buddhist. While we mention 'Bangali', religious identity is not a factor, rather, their cultural, lingual, and ethnic identity are the main factors.

Another prime target of Pro-Pakistan perpetrators were the Hindus, the largest minority group in East Pakistan. Hindus are the traditional inhabitants of ancient Bengal. According to the census of 1872, they were the majority in Bengal, and gradually as the numbers dwindle, they become a minority. No census was conducted in 1971 in East Pakistan. In the 1961 census, the proportion of Hindus was 18.5%, which decreased to 13.5% in 1974¹¹. Besides, some religious and ethnic groups, apparently accustomed to similar religious practices as the Hindus, were also targeted. Among them, the main one was the Bangali Buddhist community. Buddhists were the second-largest religious minority in East Pakistan. The proportion of the Buddhist population was 0.7% in 1961, which declined to 0.6% in 1974. Besides, the Bangali Christians were also targeted for being non-Muslims. It is to be noted that, the Bangalis belong to one group according to genocide definition which is 'ethnical', but the religious minorities of East Pakistan belong to two groups at the same time such as 'ethnical' and 'religious.'

Religious minorities were also a target for Pakistanis, as Buddhism and Hinduism were predominant among them. Also, they were targeted because of their own unique culture, customs, traditions, and beliefs which were not similar to those of Muslims.

What is the UNPG

Raphael Lemkin functioned as the motivating force behind the United Nations Convention on the Prevention and Punishment of Genocide (UNPG) in 1948. His enormous efforts and steadfastness, and his mission led to the path of the UNPG. The Genocide Convention was shaped in response to the murder of millions of Jews and other religious and ethnic groups by the Nazis during World War II. On 9 December 1948, the Genocide Convention was adopted by the United Nations General Assembly and it entered into force on January 12, 1951. As of September2005, the number of parties to the convention had grown to 137; more than 70 nations have made provisions for the punishment of genocide in domestic criminal law." This paper refers to this UN Genocide Convention in 1948 as the UNPG Convention and the definition adopted there as the UNPG's definition.

Tested by UNPG's Definition (1948)

One of the major complications to the academic recognition of the Bangladesh genocide is the question of its theoretical purity. The genocide is not judged based on the universally recognized definition of genocide. However, in this theoretical checkup, the Bangladesh genocide can be easily recognized.

This very convention, which is the most explored convention in the history of Genocide Studies adopted the Universal Declaration of Human Rights which, while formulating the following definition, defined the crime of genocide in international law.

Article 1. The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish. ¹³

Article II: In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group. ¹⁴

First, the definition is completely a victim-centric definition, where the perpetrator may be a person or group of people or an organization or anything like this. Second, it specifies the victim's group into four types of identity, namely national, ethnical, racial, and religious, no matter they are majority or minority in a certain region. Third, genocide doesn't necessarily need to kill, rather, causing physical or mental injury will be treated as genocide. Fourth, if the actions mentioned above are done just intending to destroy at least one group, it is genocide. Fifth, genocide doesn't involve killing the whole group, rather, targeting a certain portion of the group for extermination or to destroy is genocide. Last, intent to forcefully stopping the population growth of a group through preventing birth or transform them into another group is also genocide.

This very definition is the only one, which is formulated by the largest number of experts working together. The most important thing about this definition is its emphasis upon 'group identity'. What is meant by this definition is that, when a criminal offense happens due to four specific group identities, viz. national, ethnical, racial, or religious, then it is identified as genocide. Here 'group identity' is the key to targeting the victims. Another important element of the UNPG's definition is 'intent to destroy'. 'Intent' means intention or design. It is a purposeful action, but is completely different from 'motive'. In most cases, perpetrators of genocide try to legalize their brutal actions as 'good motives' like national security, territorial integrity, protection of religion, etc. But whatever may be the motives behind the crime must firmly be ignored while defining genocide. If the killing has been done intended to destroy a group or even a portion of the group, then it is genocide. It must bear mentioning here that it might seem difficult to prove the intent. But intent can simply be proven from statements and orders of the perpetrators. Considering the systematic pattern of coordinated acts of the perpetrators could also reveal the intent.

As noted above, the Genocide Convention came into force on 12 January 1951. More than 130 nations have ratified the Genocide Convention and over 70 nations have made provisions for the punishment of genocide in domestic criminal law. Again, the UNPG's definition of genocide was included as a crime in Article 6 of the 1998 Rome Statute of the International Criminal Court (ICC). Again in 2002, the Rome Statute of the ICC accepted the UNPG's

definition of genocide without any modification.

With this brief definitional discourse, some basic points can be drawn. First, UNPG's definition is the definition of the primary type, in terms of the time of its approval, and also in terms of its constricted group identity. It was an event of 1948, after which most of the horrible genocides of the twentieth and twenty-first-century took place. Therefore, the branch out experiences of human killings is totally missing there Please clarify this Had the UNPG had defined this in 2020, it would certainly have been exalted in defining the victim's identity, perpetrator's identity, and of course, the intent, utilizing greater experiences of human intellect and experience. The rationale for this assumption can be understood by analyzing the academic definitions of genocide from the eighties of the twentieth century and onwards, some of which are given above.

But despite its limitations, it is not possible to examine any particular genocide with the diverse academic definitions without the UNPG's definition. Since those definitions are so multifaceted, even contradictory, that hundreds of contradictory interpretations of genocide would emerge if the criteria of all definitions were applied. In that case, one has to analyze a genocide subject to the definition of every scholar and has to create hundreds of different interpretations of a genocide, which is virtually impossible. In particular, in the case of the Bangladesh genocide – which is still much undiscovered in the world or analyzed by the murderers or their patrons – it is not appropriate to fall into the crowd of definitions for analysis.

Leo Kuper rightly found the ultimate limitations of different definitions other than the UNPG's definition and correctly stated, "I do not think it helpful to create new definitions of genocide, when there is an internationally-recognized definition and a Genocide Convention which might become the basis for some effective action, however, limited the underlying conception." ¹⁵

Furthermore, the genocide definitions or models or whatever like this are not enforceable in any court, through which no real remedy for the most heinous crime of killing is possible. Since genocide is a crime that threatens the very existence of human civilization, it should be defined in a way that is conducive to human existence. This process of definition is not merely a matter of intellectual isometrics, rather, it is a matter of maintaining the tolerance and pluralism of human existence. In this regard, the definition of UNPG is the most practical and applicable, indeed. It is worth mentioning that, the world's largest number of theorists, researchers, lawyers, diplomats, and human rights activists have worked together to formulate the definition of the UN convention. And a heated debate had taken place collectively at the end of the discussion and amendment. As a result, in comparison with this, any individual or personal definition, however logical it is or so, is very little importance in terms of acceptability.

Analyzing Bangladesh Perspective

Now Bangladesh Genocide of 1971 can be examined in the light of the UNPG's definition. It

would be easier to clarify genocide from the table stated below:

Table 1: Group Identity

Group	Explanation	Who they are	
Identity			
National	Whose identity is defined by a	East Bengal People/Bangali (The term	
Group	common country of nationality or	East Bengal is a geo-historical name	
	national origin	to identify the East Pakistan territory)	
Ethnical	Whose identity is defined by common	Bangali (Owner of Bangla Language,	
Group	cultural traditions, language, or	cultural traditions, and heritage)	
_	heritage	_	
Racial	Means a set of individuals whose	Bangali (mixed-breed physicality) and	
Group	identity is defined by physical	the people from small anthropological	
_	characteristics	groups	
Religious	Whose identity is defined by common	Hindu and others who act similarly in	
Group	religious creeds, beliefs, doctrines,	practicing some indigenous rituals	
	practices, or rituals		

From Table 1, genocide victims can be classified based on group identities such as national, ethnical, racial, and religious. First, national groups are those - though there are many controversies in defining the term 'National' - whose identities originate from a single geographical area or country or nationality. A sense of nationalism or nationhood and common history also make a national group. The majority of the people of East Pakistan are historically Bangla-speaking and culturally Bangali. Geographically, they have lived in the same area for hundreds of years and remained under common political rulers which never tried to change their national identity. During the Pakistan period, both geographical and national identity was transformed into political nationalism. This political nationalism was further consolidated when the independence of Bangladesh was declared in March 1971. As a result, the state identity of the people of this region has changed. Instead of Pakistani or East Pakistani identity, they become the people of Bangladesh. Although this state identity of the people of this area has changed over time, the national identity has been embedded into its people's minds, culture, and politics. This Bangali nationalism of the people of East Pakistan angered the state of Pakistan, and with a challenge to the continuance of that Pakistani identity, they killed Bangladeshi national activists as well as supporters during the Liberation War.

Second, ethnic identity is defined by common cultural traditions, language, or heritage. This criterion identifies the Bangali people in terms of their cultural traditions, heritage, and of course Bangla language. Pakistanis have always disliked this distinct Bangali tradition, ethos, and even language. This hatred towards the Bangali by the Pakistanis had been demonstrated in many policies adopted by the government during the twenty-four years of Pakistani rule. In fact, cultural, linguistic, or traditional pluralism has always clashed with the ideology of the Islamic State of Pakistan, which culminated in genocide during the Bangladesh Liberation War in 1971.

Third, racial identity is mostly related to biological features. The Bangalis are not a distinct ethnic group, but a nation made up of a historical mix of several ethnic groups. This mixture has given them the appearance of a kind of mixed race, which is easily identifiable. This characteristic of the Bangalis is completely different from that of the West Pakistani rulers or armies, which have given the people of these two regions two distinct ethnicities. Besides, there were at least thirty-three different ethnic groups in East Pakistan, whose features differed even from the mixed appearance of the Bangalis. These ethnic groups were also physically different from the West Pakistanis. In many cases, this visible difference became a criterion in determining the genocide group identity.

Fourth, Bangali Hindus, Buddhists, Christians, and indigenous, as well as folk religious groups, are similar in many religious practices. In particular, their method of prayer, use of idols, religious dress, devotional songs, devotional dances, use of musical instruments, the offering of various objects to God, etc. are completely different from those of Islam. Even the religious practices of the Christians were visually influenced by the Bangali culture and tradition. Neither the state nor the Pakistani military had the political generosity to respectfully approve of this distinction. To them, all religious followers except those of Islam were 'Kafir'. This philosophical hatred and intolerance for different religions were one of the foundations of the Bangladesh genocide.

However, whether the killings of members of the groups will be construed as genocide or simply a criminal case depends on the reasons why Pakistani perpetrators killed them. Self-identity of the people of East Pakistan is the same. For example, they are the Bangali in terms of nationality, Bangali in terms of ethnicity, Bangali in terms of language-cultural identity, and the majority portion of people are also Bangali in terms of their racial features. In fact, the Bangali identity is ethnically, and culturally traditional at the same time. In 1971, the identity of their political Bangaliness became the defining one, because this Bangaliness was the basic foundation of the establishment of the state of Bangladesh. To understand the Bangalis as targets of genocide, one has to keep in mind this seemingly complex issue of their identity.

Now the genocidal actions taken by the Pakistani perpetrators along with their collaborators can be examined in the light of UNPG's definition. The context is presented in the table below:

Table 2: Genocidal Activities

Activities	Explanation	Whether it	Perpetrator
		happened in	
		Bangladesh	
Killing	Direct killing and actions	Vastly	Pakistan Army,
members of the	causing death	happened	Peace Committee,
group			Razakar, Al-
			Badar, Al Shams
Causing	Inflicting trauma on members of	Vastly	Pakistan Army,
serious bodily	the group through widespread	happened	Peace Committee,
or mental harm	torture, rape, sexual violence,		Razakar, Al-

	forced or coerced use of drugs, and mutilation		Badar, Al Shams
Deliberately	Deliberate deprivation of	Vastly	Pakistan Army,
inflicting on	resources needed for the group's	happened	Peace Committee,
the group	physical survival, such as clean		Razakar, Al-
conditions of	water, food, clothing, shelter, or		Badar, Al Shams
life	medical services. Deprivation of		
	the means to sustain life		
Imposing	Involuntary sterilization, forced	Partially	Pakistan Army,
measures	abortion, the prohibition of	happened	Peace Committee,
intended to	marriage, and long-term		Razakar, Al-
prevent births	separation of men and women		Badar
	intended to prevent procreation		
Forcibly	Imposed by direct force or by	Indirectly	Peace Committee,
transferring	through fear of violence,	happened	Razakar
children of the	psychological oppression, or	through	
group to	other methods of oppression	forceful	
another group		religious	
		conversion	

With the genocidal acts narrated above in Table 2, two important things need to be added. First, Genocidal activities need not necessarily kill or cause the death of members of the groups stated in Table 1. Genocide can happen without killing a single man. Causing serious bodily or mental harm is an act of genocide if it is intended to destroy or inflicting the conditions of life of a group, in whole or in part. Direct killing and causing serious bodily and/or mental harm – which are proven by thousands of evidences and witnesses – were very common phenomena of the Bangladesh genocide. Especially widespread torture, rape, and sexual violence were very frequent. Second, the third aspect of UNPG's definition was also very common in the Bangladesh genocide. It was imposed by Pakistan authority in many ways, viz. destroying and burning households, occupying of farmland and other house assets like cattle, food grain, and money, looting houses, and even occupying the relief of foreign agencies which was allotted for East Pakistani people to prevent starvation. The last two aspects of UNPG's definition were not frequent in the Bangladesh genocide, though some instances were found, especially forceful conversion from Hinduism to Islam took place, which was certainly transferring one group member to another.

One thing is needed to clarify to realize the UNPG's definition that, all the criteria may not exist in certain genocide. The criteria have some options, if any one option happened with fulfilling other conditions of the definition, it is genocide. It is not mandatory that all the options or criteria must be present on the same scale in genocide. No genocide in human history can fulfill all the criteria in the same proportion, and it is needless to say that it is not mandatory to prove a killing as genocide. Furthermore, it is not essential that all the targeted groups are to be present in certain genocide. In the same way, all the alternative conditions of 'intent' and all the modes of killing may not exist in certain genocide. Literarily fulfilling the conditions of one particular genocide definition is almost impossible to analyze any genocide in the world. Genocide characteristics differ from time to time, from one geopolitical reality

to another, from one killer to another, from one victim to another, and so on. Consequently, genocide is to be defined keeping all the perspectives in mind, not just keeping the definition into cognizance mechanically.

So, in the light of the UNPG's definition, the killings, atrocities, torture, rape, looting, religious conversion, burning of household, occupying assets, etc. by the Pakistani perpetrator and their active allies are, no doubt, a genocide.

Conclusion

The UNPG's definition of genocide is a suitable one to successfully narrate and prove the Bangladesh Genocide. Although this definition is one of the earliest ones, and many more logical and better definitions other than the UN one have been given from time to time, it is by far the most relevant for two reasons. First, this definition had been approved by the world's largest organization and the largest number of experts. Second, it is enforceable in a court of law. So, Bangladesh should not and need not formulate any more definition to explain the massacre of 1971 to distinguish it as genocide. That may not be acceptable both in the academic and legal aspects and will foster more controversies. Rather, it is appropriate to make an academic analysis of the Bangladesh genocide in the light of the UNPG's definition with appropriate evidences.

Endnote

Enunou

¹ Naimark Norman M. *Genocide: A World History*, New York: Oxford University Press, 2017.

² Naimark Norman M. *Genocide*: New York: Oxford University Press, 2017.

³ George Shirinian and Levan Chorbajian (eds.), *Studies in Comparative Genocide*, New York: St. Martin's Press, Inc., 1999.

⁴ Some experts reversed this date to the winter of 1942. See, Irvin-Erickson Douglas, *Raphael Lemkin and the concept of Genocide*, Philadelphia: University of Pennsylvania Press, 2017.

⁵ Irvi-Erickson Douglas, *Raphael Lemkin, and the Concept of Genocide*, Philadelphia: University of Pensylvania Press, 2017.

⁶ Irvi-Erickson Douglas, *Concept of Genocide*, University of Pensylvania Press, 2017.

⁷ Steven Leonard Jacobs and Paul R. Bartrop, *Fifty Key Thinkers on the Holocaust and Genocide* Routledge, 2011.

⁸ http://www.genocidewatch.org/genocide/whatisit.html (cited in 18 November 2019).

⁹ Lemkin Raphael, Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress, New York: Carnegie Endowment for International Peace, 1944. Cited in Douglas Irvin-Erickson, Concept of Genocide, University of Pensylvania Press, 2017.

¹⁰ There are thousands of evidences of selective killing of Hindus in 1971. The list of victims of 1971 found in many districts of Bangladesh show that the majority of Hindus were killed selectively. Even the Hamoodur Rahman Commission Report (1972) of the government of Pakistan has proved this. See Hamoodur Rahman Commission Report (1972), Chapter 2 (15), Chapter 2 (18), Chapter 4 (8).

¹¹ No census was conducted in 1971 in East Pakistan. In the 1961 census, the proportion of Hindus was 18.5%, which decreased to 13.5% in 1974.

¹² Christopher Catherwood and Leslie Alan Horvitz ed., *Encyclopedia of War Crimes and Genocide*, Facts on File, Inc. 2006.

¹³ Jones Adam, *Genocide: A Comprehensive Introduction*, 2nd ed. Routledge, 2011.

¹⁴ Schabas OcMria William A. *Genocide in International Law the Crime of Crimes*, Second Edition, Cambridge University Press, 2009.

¹⁵ Steven Leonard Jacobs and Paul R. Bartrop, *Fifty Key Thinkers on the Holocaust and Genocide*, Routledge, 2011.