



Den Haag, 1 februari 2012

Voortouwcommissie: **vaste commissie voor Buitenlandse Zaken**

Activiteit: **bijzondere procedure**
Datum: donderdag 2 februari 2012
Tijd: 10.00 - 10.45 uur
Openbaar/besloten: besloten

Onderwerp: delegatie uit Bangladesh over rechtszaken tegen oorlogsmisdadigers

Agendapunt: **Het lid Ferrier ontvangt in het kader van de bijzondere procedure een delegatie uit Bangladesh over de rechtszaken tegen oorlogsmisdadigers (1971).**

Het lid nodigt u van harte uit hierbij aanwezig te zijn.

Zaak: Brief derden - International Committee for Democracy in Bangladesh (ICDB) te Leiden - 8 januari 2012
Verzoek ICDB en BASUG, namens delegatie uit Bangladesh, om gesprek met vaste commissie voor Buitenlandse Zaken over de rechtszaken tegen oorlogsmisdadigers (1971) - 2012Z00140

Griffier: T.J.E. van Toor

Activiteitsnummer: 2012A00157

BIODATA ZEAD-AL-MALUM

Prosecutor

International Crimes Tribunal, Dhaka, Bangladesh
Old High Court Building, (West Block).

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Zead-al-Malum was born in 1954 in the District of Tangail, Bangladesh. He successfully completed his institutional education in 1978 and was awarded bachelor's degree, master's and post-graduate degree from the University of Dhaka. In 1979 he was duly enrolled as an advocate. Since 1981, Mr. Al-Malum is practicing very regularly and successfully, building a remarkable reputation at the Supreme Court of Bangladesh, working as an advocate in the field of constitutional and criminal law etc. As a law researcher, he has contributed to the development of personal law/family law. He has drafted many laws in this field, thus contributing in a valuable manner towards ensuring children's rights; the rights of the aboriginal people; labor and garment workers' rights, and the rights of agricultural workers. As a researcher, he has drafted a uniform Family Code, deliberately structured in

conformity with UHRD, CRCH and CEDOW. He joined and contributed to many workshops, seminars and symposia in the country and abroad. Further, he has been the General Secretary of Bangladesh's Democratic Lawyers Association (DLAB). Presently, he is the Vice President of the national affiliate of IADL, an international lawyers' organ with consultative status at the UNO/UNHRC. He is also the Treasurer of SAARC-Lawyers, Bangladesh Chapter. Mr. Al-Malum has participated in many international lawyers' conferences and congresses. Lastly, in 2009 he participated in IADL's International Congress XXVII held in Hanoi, Vietnam. On the basis of his proposal, the Vietnam Congress adopted a resolution in support of Bangladesh's initiative towards the trial of perpetrators of 1971 war crimes, i.e. committed during Bangladesh's liberation war. The trials are being held under the country's International Crimes Tribunal Act, 1973. He has conducted the people's inquiry commission as one of the secretariat's member. He is a bonafide freedom fighter and human rights' activist. He has extensively worked on national awareness capacity building, and on knowledge, transfer and legal empowerment in the core area of international crimes in Bangladesh. In March of 2010, he was appointed prosecutor of the ICT-BD, a domestic tribunal with the power to adjudicate international crimes. Since then he has helped build the Tribunal's effective investigation agency and prosecution agency. As head of the prosecution team he conducts key ICT-cases

DR. PETER CUSTERS

Peter Custers holds an M.A. in international law from Leiden University, the Netherlands (1970). He subsequently followed a three-year course in international relations at the Johns Hopkins University, in Washington D.C.. He obtained his Ph.D. in sociology from the Catholic University, Nijmegen, the Netherlands (1995). In the first part of the 1970s, after Bangladesh gained its political independence, Custers gathered first-hand experience in grassroots' peasant organizing, while stationed in Bangladesh as leading Dutch journalist, writing for both Dutch and international newspapers. He was incarcerated under the military dictatorship that came to power in late 1975, and faced a kangaroo trial in September 1976, emanating in his deportation 'for life'.

Over the last twenty years, Custers has led or helped initiate a variety of international campaigns on Southern causes, while lobbying actively towards the European Parliament and other Brussels-based European institutions. He notably helped organize two major international conferences which in 1993 and 1996 respectively were held in the European Parliament around a highly controversial World Bank-led 'flood protection'-scheme, i.e. the '*Flood Action Plan, Bangladesh*' (FAP).

In 2007/2008, Custers was an affiliated fellow, researching on religious tolerance and the history of Bangladesh, at the International Institute for Asian Studies, Leiden, the Netherlands. In 2010, he was granted an award as Human Rights' Defender and Friend of Bangladesh, by the country's current government. Presently, he is working as Special European Correspondent of the Bengali language daily *Prothom Alo*, and as International Columnist of the English language newspaper *The Daily Star*, Bangladesh. Besides being a committed lobbyist and journalist, Custers is also a theoretical economist. His book '*Capital Accumulation and Women's Labor in Asian Economies*' (1997) is shortly being republished (Monthly Review Press, New York, 2012). His original theoretical study '*Questioning Globalized Militarism*' (Tulika, New Delhi/Merlin Press, London, 2007) covers both the production and exportation of arms and nuclear production in its broadest sense (i.e. civilian plus

military). The study was prefaced and hailed for its innovative significance by the world-renowned Egyptian economist Samir Amin.

The Daily Star, Friday, January 20, 2012

Army foils bid to topple govt

Spokesman says group of 'religious fanatic' serving, retired officials behind conspiracy; some non-resident Bangladeshis instigated it; 2 arrested; 2 top ranking officers under interrogation

Major Zia, absconding (plotter) and Ishraq Hossain, Zia's (associate) **Staff Correspondent**

The army has foiled a "coup attempt to overthrow the present democratic government", a military spokesman said yesterday. A band of religious fanatics, made up of mid-ranking officers and their retired colleagues, was involved in the failed putsch at the instigation of some non-resident Bangladeshis.

Brigadier General Muhammad Mashud Razzaq, director of Personnel Services Directorate, made the disclosures at an unprecedented press briefing at the Army Officers Club in Dhaka cantonment. Reading out a statement, he said the army had already unearthed specific information regarding some serving officers' involvement in the conspiracy to halt the democratic government system.

"But this evil plot has been resisted thanks to sincere efforts by the well-disciplined members of the force," he said adding that some serving and retired officials had already admitted their involvement. Replying to a query, Brig Gen Mashud said no more than 14 to 16 mid-level officers were believed to have been involved in the coup attempt. He said some undisciplined and disgruntled officers were still involved in attempts to execute the scheme.

To unearth details about the scheme, a court of inquiry was formed on December 28 last year. That court is still in operation, the brigadier general said adding that stern actions would be taken against the plotters once the investigation was complete. Two retired officers -- Lieutenant Colonel Ehsan Yusuf and Major Zakir -- have been arrested in connection with the failed coup and they are now being interrogated, according to the statement read out at the press briefing.

Meanwhile, army sources at the press briefing said two senior officers have been kept at Dhaka cantonment log area for interrogation. Brig Gen Mashud said Ehsan and Zakir were arrested after they confided in two serving officers on December 13 and 31 last year their intent to topple the government and provoked them to join the design by ceasing to be loyal to the government. Informed by the two serving officers, the army authorities arrested Ehsan and Zakir.

On December 22 last year, a serving major named Syed Mohammad Ziaul Haque alias Major Zia met another serving officer and provoked him to get involved in the anti-state plot. As the officer approached by Major Zia informed his high command about the plot, the authorities telephoned Zia to join the Dhaka cantonment log area by cancelling the leave that he was on after completing training at Military Institute of Science and Technology. Zia

disobeyed the order and absconded. He is still involved in subversive activities against the army, the written statement said.

On January 9 and 10, he sent two operational orders to different serving officers through email and wanted to know from like-minded serving and on-study [MIST students] officers about the preparations for the coup. He was relentless in efforts to inspire the officers to execute the plan on January 10. On the same night, he called a non-resident Bangladeshi named Ishraq Ahmed, possibly living in Hong Kong, and discussed the “developments and execution process of the coup”.

Maj Zia told Ishraq to ask local and international media to telecast and publish reports on “the army coup”. Ishraq, who hails from Naogaon and is believed by the army to have connection with a Saarc country intelligence agency, then asked Zia to contact him on completion of “the coup” so that he could fly to Bangladesh as quickly as possible. Maj Zia had a long telephone conversation with some officers at different cantonments, the army sources said. He urged all the officers, some mid-ranking and some juniors, to come out of the cantonment with their forces to establish Islamic rule in the country.

The two officers -- the major general and the brigadier general -- have been kept detained as per the army rules because they had remained silent rather than informing the high command even after being approached by the conspirator, added the sources. At the press briefing, Brig Gen Mashud Razzaq called upon all to any plot that would harm the army's hard-earned image and said all the members in the army are ready to sacrifice for the country's sovereignty and integrity.

It is not acceptable that any vested quarter, foreign or national, will implement their evil design using the army, he added. The army spokesperson also said a newspaper [Daily Amar Desh] on January 3 had published a fabricated tale based on Maj Zia's Facebook write up titled “Mid-level officers of Bangladesh Army are bringing down changes soon” as a motive to create confusion about the security force.

On January 8, banned fanatic organisation Hizb ut-Tahrir distributed across the country provocative leaflets based on Zia's Facebook post. The next day, a major political party [BNP] of the country alleged in line with the fabricated, misleading and instigating news that incidents of disappearances have been occurred in the army, giving rise to unexpected debates in the army and also among conscious citizens, added the brigadier general. Mashud sought cooperation of the country's democratic patriotic people and others concerned to overcome the temporary challenge, and urged all to inform the concerned authorities about the whereabouts and activities of Maj Zia. Senior army officials, including Lt Gen M Mainul Islam and Brig Gen Ridwan-Al-Mahmood, among others, were present at the press briefing.

QUESTIONS & ANSWERS

Asked whether the plot was still on, Mashud said there was an “ill-attempt” and they have “succeeded to stop it.” Asked what type of coup attempt it was, he again said it was an ill-attempt and in due time they came to know about it and successfully quelled it through combined output of command channel and discipline. On a media report regarding the name of a major general of Comilla Cantonment, Mashud said, “He is now in the Log Area Sadar and staying at his residence with his family.” Asked whether he is under house arrest, he said there is no term like 'house arrest' in army law.

Replying to a question whether any foreign state or force was involved in the coup plot, he said, "We will not brush aside the possibility and the investigation is going on taking everything into consideration. We cannot say anything specifically before the probe ends." Asked about the ranks of the officials involved in the failed attempt and if there was any such attempt outside Dhaka Cantonment, he said, "I firmly want to say that the number is very, very limited. So far we have learnt that they are mid-level officers and the topmost position is a retired lieutenant colonel." He also said absconding Maj Zia contacted one or two officials outside Dhaka over telephone, but "be clear that there was no move from outside the capital".

To a question whether any steps will be taken against the political organisations who had talked about disappearance in the army, Brig Gen Mashud answered if the probe body recommends, action can be taken as per the law of the country. "We have arrested two and investigation is going on about others whom we cannot arrest until we get concrete evidence. The number is in no way more than 14 and 16," he said replying to another query. He also said two to three have already admitted their link with banned Hizb ut-Tahrir. Asked whether non-resident Bangladeshis will be brought to the country for trial if found their complicity, Brig Gen Mashud said the high-ups had already started initiative to locate him [Ishraq] and take necessary measures.

SHAHRIAR KABIR : A HUMANIST

By Prof. Ajoy Roy

Shahriar Kabir, a reputed freelance journalist in Bangladesh, a documentary filmmaker, a writer, a humanist, and above all- an uncompromising human rights activist, was born in Dhaka, Bangladesh on 20th November 1950. Mr. Kabir after completing his schooling in 1966 with Higher Secondary Certificate in 1968 and formal education in 1971 he began his career as a journalist since 1972. As a freedom fighter he participated in the liberation war of Bangladesh against the Pakistani occupation force in 1971.

As Shahriar was exposing himself as an humanist and activist against human rights violation through his writings exposing the ugly desire and design of seizing power by fundamentalist forces to turn secular-liberal democratic Bangladesh into a theocratic state based on fundamental Islamic principles he became one of the principal target of the Islamite force in Bangladesh. He is considered as one of the champion of the civil society movement for trial of war criminals. So far he has written 20 books on necessity of the trial of the perpetrators of genocide, war crimes and crimes against humanity. He is a relentless fighter against any form of minority deprivation, discrimination and atrocities. He became more active and courageous in defending and upholding the cause of minorities when the victorious armed cadres of the 4-party alliance were persecuting the minorities following October General election of 2001. He with his vigilance eye extensively toured various parts of the affected areas, collected data of minority repression for future documentation. He was arrested twice first time in November 2001 and 2nd time in December 2002 by the BNP-Jamat led govt. Humanists in Bangladesh built up a movement inside Bangladesh and mobilized international pressure for his release. The Amnesty International termed him „Prisoner of Conscience" (AI Report on Bangladesh: Attacks on members of the Hindu minority December 2001, AI Index ASA 13/006/2001).

Shahriar Kabir, a noted documentary filmmaker earned fame for his documentary films on genocide, crimes against humanity and war crimes committed during the war of liberation of Bangladesh in 1971 and also on rise of Islamic militancy entitled 1) "Cry for Justice", 2) "SOS", 3) "Songs of the Freedom Struggle", 4) "War Crimes 71", 5) "Portrait of Jihad" and 6) "A Friend in Difficult Times".

Shahriar Kabir has edited white papers in three volume (2700 pages) titled „500 days of Communal Persecution in Bangladesh" published in October 2006. So far he wrote 80 books both fiction and non-fiction mainly on socio political problems focusing human rights. He has received

several awards from home and abroad including Bangla Academy award, the highest one of Bangladesh for major contribution to the Bengali literature.

At present he is the Executive President of “Forum for Secular Bangladesh & Trial of War Criminals of 1971”, Convener of “Platform for Supporting International Crimes Tribunal” and General Secretary of “South Asian People’s Union against Fundamentalism & Communalism”. He has visited nearly 40 countries and attended more than 100 international conferences/seminars/workshop in different countries mainly on human rights.

The War Crimes’ Issue, Bangladesh

Dr. Peter Custers

Bangladesh’s issue of the trial of war criminals refers to the adjudication of persons who were involved in the mass murders executed by or on behalf of the Pakistani army during Bangladesh’s liberation war of 1971. The issue has been pending for long in Bangladeshi politics. It in fact needs being addressed in any human rights’ report on contemporary Bangladesh. During the 9 month’s liberation war now 34 years back, hundreds of thousands, if not millions, of people were indiscriminately killed. The scale of human rights violations was such, that various observers spoke of a ‘genocide’ of the Bengali people. These violations were a part of the last-ditch attempt by the Pakistani army to re-subjugate the people of East Bengal. However, the killings, tortures and other forms of cruelty were not only executed by regular soldiers of the Pakistani army, but also by a section of Muslim politicians who opted to collaborate with the forces of occupation. Whereas the overwhelming majority of the population of East Bengal during the 1970 parliamentary elections had clearly indicated they stood for national self-determination and for secular politics, - a small but significant section of politicians favoured the ‘integrity’ of the Pakistani state with Islam as state-religion, and such at all costs.

In order to understand clearly how the history of 1971 is interlinked with contemporary politics and the violations of human rights in Bangladesh today, we need to take a brief look at the civilian and para-military structures which were devised in support of the Pakistani occupation. After the first wave of mass slaughter, which had started on March the 25th, Tikka Khan, the chief of the Pakistani army in East Bengal, on April the 4th met some 12 politicians, including the Jamati leader Golam Azam. The meeting paved the way for the building of so-called ‘*Shanti*’ (‘*Peace*’) *Committees*, members of which not only helped the Pakistani army by identifying civilian sympathisers with the nationalist cause, but also engaged in killing civilians themselves. Subsequently, in June, after proclamation of a specific ordinance, a special para-military force was established, termed ‘*Razzakar Bahini*’. These razzakars, mainly recruited from among university students, and from among students and teachers of the religious schools, the *madrasahs*, plunged into action without much training. Rather than engaging in combat with freedom fighters, they were primarily employed to terrorize the population. But perhaps the most notorious instruments created in 1971 were the various death squads, i.e. groups such as the *Badar Bahini* which operated semi-clandestinely, and which picked up, tortured and summarily executed intellectuals suspected of being nationalist-minded.

Now, whereas there were several communal and fundamentalist-oriented parties that agreed to help the Pakistani army in building the above mentioned civilian and para-military structures, the political party that played the most crucial role in terrorising and murdering civilians was the *Jamat-Islam*. Leading politicians of the *Jamat-Islam* joined the Shanti Committees, and leaders of the *Jamat Islam*, and of its student wing, then called the *Islami Chattro Sangha*, also commanded the mass para-military force, the *Razzakars*, and the death squads such as the *Badar Bahini*. According to several investigations implemented to document the given history, - the *Jamat Islam* helped Rao Forman, a Pakistani army officer, in drafting his policy of killing nationalist intellectuals. Further, the collaborationist role of the *Jamat Islam* was shaped quite openly. Party-leaders spoke out publicly in favour the Pakistani army’s operations of mass slaughter, they

openly defended the formation of the *Razzakar Bahini*, and publicly championed the formation of the *Badar Bahini* in the later part of 1971.

Thus, the party's role during the liberation war in part has been reconstructed from news-reports published in Dhaka dailies in 1971. Leaders of the *Jamat Islam* were also sworn in as Ministers of the collaborationist cabinet. They included Abbas Ali Khan, who was to become a key leader of the *Jamat Islam* after its revival in independent Bangladesh.

Some words must be devoted to the death squad of the *Badar Bahini* in particular, since this is of special significance in assessing the relevance of the issue of war criminals today. As indicated, shortly before liberation, i.e. in the weeks preceding the surrender of the Pakistani army in December of 1971, members of the *Badar Bahini*, in the capital as well as in different towns of East Bengal, abducted hundreds, if not thousands of intellectuals from their homes. The abductors were masked and wore camouflage dresses. The victims were blindfolded, they were executed, often after brutal tortures, and their bodies were thrown into mass graves. These murders, thus, in no way can be said to have been killings that were the unfortunate side-events of the military confrontations between the Pakistani army and the liberation fighters: they undoubtedly need to be designated as *war crimes*. Although efforts to document these crimes have been problematic to say the least, - according to the well-known book which has comprehensively recorded the names and roles of 1971 collaborators (see resources below), the *Badar Bahini* was essentially an extension of the Jamat Islam's erstwhile students' wing, and its principal commanders belonged to the same organisation. They included Matiur Rahman Nizami, who was the *Islami Chattro Sangha's* vice-general secretary, and Ali Ahsan Mujahid, who reportedly was both a member of the Sangha's central committee, and a city leader of the Jamat Islam.

The story regarding the war crimes, regarding the *Jamat's Islam's* responsibility for the mass murders committed during the 1971 liberation war, has lost none of its actuality today, nearly 34 years since the end of Bangladesh' liberation war. The process of the party's 'rehabilitation' and re-integration into Bangladeshi politics has surely started long way back. It in a sense started during the period of the first government of independent Bangladesh, when thousands of war criminals were released from jail, apparently under international pressure. It was accelerated during the prolonged period of military dictatorship, when the party was allowed to resume legal activities. But it reached a new point, when leaders of the *Jamat Islam* who have never repented for the role they played in 1971, were incorporated into the coalition government of Khaleda Zia, which assumed office after the elections of October, 2001. Two above mentioned leaders of the *Badar Bahini* were included. Matiur Rahman Nizami became Minister of Industry, and Ali Ahsan Mujahid became Social Welfare Minister in Khaleda Zia's cabinet. A third reported war criminal who obtained a key post is Salauddin Kader Chowdhury, who became Khaleda Zia's political secretary. Clearly, then, the issue of the 1971 war crimes needs to be taken on board, when assessing the history of, and the background to, the politics of violence and intimidation in Bangladesh today.

(Statement prepared at the request of the European Commission's Bangladesh Desk Officer, 2005, on behalf of *BOOM*, the Dutch Coalition of Developmental and Human Rights' Organizations concerned with Bangladesh, November 7, 2005)

Resources:

Shariar Kabeer (editor), *Ekattorer Ghatok Jamate Islamir Ateet O Borteman* (The Past and Present of the Executioners of Seventy-One, the Jamat Islam – Mukti Juddho Chetona Bikash Kendra, Dhaka, February 1989); Mukti Juddho Chetona Bikash Kendra (Centre for the Development of the Consciousness Regarding the Liberation War)(1987), *Ekattorer Ghatak O Dalalra. Ke Kothae* (The Executioners and Collaborators of Nineteen Seventy One. Who is Where - Dhaka).

DR. TUREEN AFROZ

Tureen Afroz is an Associate Professor at the School of Law, BRAC University, Bangladesh. She has studied Ph.D. at the Monash University, Australia; LL.M. at the University of Western Sydney, Australia; and LL.B. (Hons.) at the University of London, UK. She has also studied M. A. in economics at the Delhi

School of Economics, India and B. A. (Hons.) Economics at the Lady Shri Ram College for Women of the University of Delhi, India. She has been admitted as an Advocate of the Supreme Court of Bangladesh and a Barrister and Solicitor of the NSW Supreme Court of Australia. Tureen has published her academic research works in various national and international refereed journals. Her areas of research interest include international humanitarian law, law and development, law and society, law and economics, international business law, securities market law, investment law, energy regulatory law and consumers' protection law. She is the Chief Editor of the *Journal of Law and Development*. Tureen's publication include the book, *Genocide, War Crimes and Crimes against Humanity in Bangladesh: Trial under International Crimes (Tribunals) Act, 1973* (published in Dhaka by the Forum for Secular Bangladesh and Trial of War Criminals of 1971 in 2010). Tureen is also the Member-Secretary of the *Platform for Supporting International Crimes Tribunal, Dhaka*

The Daily Star, Tuesday, January 10, 2012

Ghulam Azam, Nizami

War crimes charges accepted

Warrant if Azam does not appear in court tomorrow

Staff Correspondent

The International Crimes Tribunal yesterday accepted formal charges against former Jamaat ameer Ghulam Azam and its present Chief Motiur Rahman Nizami for their alleged involvement in crimes against humanity during the Liberation War.

The tribunal directed Ghulam's chief counsel barrister Abdur Razzaq to produce the ex-Jamaat-e-Islami ameer before it by 10:30am tomorrow, or it will issue an arrest warrant against him. It also fixed February 12 for the hearing on charge framing against Nizami. The two Jamaat leaders have been charged with involvement in genocide, rape and arson during the Liberation War, the prosecutors said.

The prosecution on January 5 submitted to the tribunal 62 charges of crimes against humanity against Ghulam Azam. On December 11 last year, the prosecution submitted at least 15 charges of crimes against humanity against Nizami.

The tribunal said it had examined the formal charges, probe reports and documents submitted by the prosecution, and primarily found proof that Ghulam and Nizami committed crimes against humanity in 1971.

It asked the prosecution to submit copies of formal charges against Ghulam to the registrar's office tomorrow for making the papers available to his lawyers.

The tribunal, headed by Justice Nizamul Huq, rejected a petition from Ghulam Azam who sought dismissal of the charges against him. It asked Abdur Razzaq whether he could produce Ghulam Azam before the court.

Razzaq told the court that he could produce Ghulam before the court after a day or two, as his elderly client needs time for preparation to appear before the tribunal.

On December 26 last year, the tribunal sent back to the prosecution formal charges against Ghulam Azam, since the charges brought against him were not classified and organised properly.

The court yesterday asked the prosecution to turn in copies of formal charges against Nizami to the registrar's office by January 12 so that the defence lawyers could collect those by January 15.

The orders came after the tribunal took into cognisance formal charges against Nizami, who is now in jail custody.

Following the court orders, prosecutor Zead Al Malum told reporters that Ghulam, the then ameer of East Pakistan Jamaat-e Islami, along with Kamaruzzaman, Mir Kashem Ali and others had formed Shanti Committee, and Razakar, Al-Badr and Al-Shams Bahinis that collaborated with the Pakistan occupation forces.

He had instigated killings of intellectuals, rape, torture, looting and other offences during the Liberation War. Nizami was also involved in similar offences, said the prosecutor.

The prosecutor said they had found that Ghulam and Nizami were involved in a number of crimes that were classified in five categories.

Abdur Razzaq said he was happy with the tribunal's order that gave him time to produce Ghulam before the court.

Nizami was present at the tribunal during the legal proceedings against him.

Meanwhile, Ghulam Azam told private TV Channel NTV, "If there is a case [against you], you have to be present at the court. I am happy that I got the opportunity to appear before the court without the hassle of arrest... I will go to the court