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Bangladesh: End Violence Over War Crimes Trials

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The Bangladeshi government and the Jamaat-e-Islami party need to act urgently to ensure that security forces and party supporters do not engage in further acts of violence, which has already led to the death of over 40 people since February 28, Human Rights Watch said today. The violence broke out on February 28 after the International Crimes Tribunal (ICT), a specially constituted court set up to prosecute those responsible for atrocities committed during the country's 1971 war of independence, convicted the vice-president of the Jamaat party, Delwar Hossain Sayedee, of war crimes and sentenced him to death.

The police in Dhaka and other places used live ammunition against protesters. Media reports suggest that most deaths were at the hands of police, but supporters of the ruling Awami League party have also engaged in vandalism and violence. The initial information received by Human Rights Watch suggests that the police were responding to attacks by Jamaat members and supporters that resulted in police and civilian deaths after the party called for protests against the verdict. The Jamaat party has denied that their members are responsible for any lethal violence, but media reports indicate that members of Jamaat's Shibir group were responsible for several attacks, including against Hindu temples and houses.

"The leadership of Jamaat should immediately issue public statements to its followers to stop these violent, unacceptable attacks against law enforcement officers and those who support the verdicts of the war crimes trials," said [Brad Adams](#), Asia director at Human Rights Watch. "At the same time, the government should instruct the security forces to strictly observe its obligation to use maximum restraint and avoid lethal force unless necessary to protect their lives or those of others. If cool heads don't prevail, Dhaka could dissolve into uncontrolled violence."

Human Rights Watch called on [Bangladesh](#)'s political leaders to avoid making comments or using rhetoric that could incite violence or otherwise inflame the situation. On March 1 the leader of the opposition Bangladesh National Party, Khaleda Zia, criticized the government's response, calling on the government and police not to use force against demonstrators. She also criticized comments made by Prime Minister Sheikh Hasina in parliament on February 10. When reacting to the

Mollah verdict she called on the courts to take into account the expectations of the public in deciding on their verdicts and sentences. Zia suggested that this would make it impossible for judges to hold fair trials and deliver impartial and independent verdicts. However, Zia then made wild claims about the violence, stating that "Heinous genocide is taking place again in our country... It's beyond our imagination that a government can carry out genocide against its own people. We liberated our motherland in 1971 standing against such genocide. We cannot tolerate that any government of that independent country would choose the path of genocide..." Zia called for a nationwide strike (*hartal*) on Tuesday, March 5.

"The violence thus far is deplorable, but wild and exaggerated rhetoric about genocide risks inciting further retaliatory violence and should be avoided," said Adams.

Human Rights Watch said that most deaths appear to have been caused by the security forces using live ammunition against Jamaat protesters. Human Rights Watch called on the government to publicly order the security forces to follow the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which state that security forces shall "apply non-violent means before resorting to the use of force and firearms," and that "whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall: (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved; (b) Minimize damage and injury, and respect and preserve human life." Human Rights Watch also called for effective investigations into the deaths of all killed during the demonstrations.

According to information received by Human Rights Watch, Shirbir and other Jamaat supporters resorted to lethal violence after the Sayadee judgment, in protests against the verdict. For example, on March 1 Jamaat supporters killed Saju Mia, aged 30, and Nurunnata Sapu, aged 22, both supporters of the ruling Awami League, following vandalism against Jamaat businesses by a group of Awami League supporters. Jamaat leaders have yet to issue public statements calling on their supporters to desist from violence.

The ICT has handed down three judgments. The first in January 2013 found Abul Kalam Azad, who was tried *in absentia*, guilty of crimes against humanity, genocide, and rape. He was sentenced to death. The second judgment on February 5 found Jamaat leader Abdul Qader Mollah guilty of five out of six charges, including murder as a crime against humanity, but acquitted him on one charge, and sentenced him to life in prison.

The failure to sentence Mollah to death sparked large protests by government supporters in Dhaka and across the country demanding that Mollah be given the death penalty. These protests, referred to as the 'Shahbagh movement' because of the location in Dhaka where protesters have gathered on a daily basis since the Mollah verdict, have been emotionally charged but largely peaceful, although there has been some violence and as many as a dozen deaths.

In the wake of these protests, the government changed the ICT rules to allow the prosecution to appeal against the sentence on the murder charge. Such a measure with retroactive effect violates the prohibition on double jeopardy in international law and guaranteed by the International Covenant on Civil and Political Rights, which prevents a person being tried or punished again for an offence for which they have already been acquitted in accordance with the law. The amendment also allows the prosecution to file war crimes charges against the Jamaat party as a whole. In addition, various Awami League leaders, including the Home Minister, have suggested that the Jamaat party should be banned and media outlets connected to the party closed.

When the ICT announced its verdict in the Sayadee case on February 28 the political situation was intensely polarized and highly emotionally charged, leading to the latest bout of violence.

Human Rights Watch has long called for justice for victims of the 1971 atrocities to be provided through fair trials. However, the trials conducted thus far have been replete with irregularities. The defense has alleged intimidation and harassment of their witnesses, including the November 2012 abduction of a witness from the gates of the courthouse. In December 2012 *The Economist* published a series of intercepted communications between the senior judge and an external adviser, suggesting close and prohibited collaboration between the judge, prosecutors, and the government. The defense called for retrials in all the cases, but the ICT has refused to consider the matter.

Human Rights Watch opposes the death penalty in all circumstances as an inherently irreversible, inhumane punishment.

"Given the enormous outpouring of emotion over the last few weeks over the trials, with thousands gathering country wide demanding the death penalty, it was incumbent on the Jamaat leadership to have made clear to its followers before the verdict to avoid violence that could escalate out of control," Adams said. "At the same time, the police and other security forces have used disproportionate force in some cases, leading to preventable loss of life and further inflaming the situation."

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