

COMMENT 246 - Bangladesh Genocide

The international community's duty to act

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The 1971 Bangladesh genocide was the most important crime against humanity taking place after the enforcing of the [Convention on the Prevention and Punishment of the Crime of Genocide](#) in 1951. Since 2015, an International Day of Commemoration and Dignity of the Victims of the Crime of Genocide and of the prevention of this crime has been celebrated each [December the Ninth](#).

Whereas an International Crimes Tribunal in Bangladesh addressed some crimes, Pakistan, the country whose military establishment is accountable for the genocide organisation, has neither recognised its responsibilities nor acted to punish the culprits (or compensate the victims). A crime that benefitted from a complicity or at least a silence of Western powers – first and foremost by the United States diplomacy – has yet to be fully recognised on the international stage.

However, beyond Bangladesh, it is in the United States that we witness the strongest process towards international recognition today. Under the initiative of Senator Benjamin Cardin (D-MD) the United States enacted on [2019.01.14](#) the Public Law No: 115-441, known as the Elie Wiesel Genocide and Atrocities Prevention Act of 2018.

As its name indicates, this public law was drafted in the spirit that animated the Nobel Peace Prize winner Elie Wiesel, who exposed and denounced the crimes of the Holocaust as well as other genocides and atrocities. The act is very commendable – to our knowledge, the most far-reaching and balanced legal framework thus far in the international arena – and clearly equates US national interests with global humanitarian principles in a spirit of prevention.

I nevertheless think there is room for improvement and refinement, both at the US level and at the international level for those countries and international institutions that want to pursue and deepen the very positive perspective portrayed by Senator Benjamin Cardin.

The first concern is common to most international initiatives concerning human-rights and relates to the crucial role devised to 'civil society organisations' (mentioned five times in a relatively concise law). Genuine civil society organisations, springing out of family or group concerns or even from

general humanitarian principles, should naturally be seen as important actors in an act of this kind.

Reality, however, has shown us how the so-called ‘GONGO’s’ (Governmental ‘Non-governmental’ organisations’) – or equivalent for-profit or self-interest organisations masked as ‘charities’ – have occupied most of the ‘civil-society’ field. In no other area is such a conflict of interests more dangerous than in those specialised in judging other people’s crimes – namely, human-rights.

As we observed in previous writings (namely, [Casaca, 2022](#)), the disinformation promoted by the main such ‘civil society human-rights organisation’ in the US, Human Rights Watch – an organisation that does not make public the sources of its funding – has been the main weapon used to blur facts regarding to the 1971 genocide in Bangladesh.

To allocate to organisations of this kind a crucial role on international human-rights’ legal framework, without any proper assessment of their integrity and real aims, is tantamount to invite the fox into the hen house.

The second concern relates to the very essence of Elie Wiesel’s message: the need to remind – and refuse impunity – as major tools to prevent the repetition of the crime should be crucial points.

The act, in its section 3, states:

‘It shall be the policy of the United States to’ (...) ‘pursue a United States Government-wide strategy to identify, prevent, and respond to the risk of atrocities by’ (...) ‘strengthening diplomatic response and the effective use of foreign assistance to support appropriate transitional justice measures, including criminal accountability, for past atrocities;’

Such a support is very much welcome, yet it should encompass law-based, general and balanced policies of sanctions inspired in the ‘[Magnitsky Act](#)’ should criminal accountability for past atrocities fail to materialise.

Still in the US, the resolution [1430/117](#)th Congress 2nd session ‘recognizing the Bangladesh Genocide of 1971’ has been sponsored by Representative Chabot, Steve [R-OH] and co-sponsored by Representatives Khanna, Ro [D-CA]; Porter, Katie [D-CA] and Malinowski, Tom [D-NJ], in a clear-cut text that says what must crucially be said – namely calling ‘on the Government of Pakistan, in the face of overwhelming evidence, to offer acknowledgement of its role in such genocide, offer formal apologies to the Government and people of Bangladesh, and prosecute, in accordance with international law, any perpetrators who are still living’.

This resolution’s text is a reference that could well be used by other national and international bodies to demand accountability from Pakistani authorities.

The European Parliament has a strong tradition on non-binding resolutions on human-rights issues, but the European Union’s action is based on legislation lagging behind on a comparable US legal framework mandating external policy.

The US ‘[Magnitsky Act](#)’ of 2012 inspired similar legislation in the European Union, namely the

Council Regulation (EU) [2020/1998](#) of 7 December 2020. Unfortunately, the European version retains considerably less input and oversight by Parliament.

As regards the obligation to take into consideration ‘criminal accountability for past atrocities in foreign policy, the European Union is also lagging behind the US. As its name indicates, Regulation [\(EU\) 2022/838](#) by the European Parliament and the Council of 30 May 2022, ‘Amending Regulation (EU) 2018/1727 As Regards The Preservation, Analysis And Storage At Eurojust Of Evidence Relating To Genocide, Crimes Against Humanity, War Crimes And Related Criminal Offences’, has some points of contact with the US’ ‘Elie Wiesel Genocide and Atrocities Prevention Act’. However, it is different in some quite important regards.

The EU’s initiative addresses a specific executive agency rather than the EU’s whole foreign policy. It is also particularly concerned with the current Russian aggression on Europe – which is unfortunate, because human rights initiatives must be general in their crafting if they are to be credible.

As regards sanctions, the experience of past ‘anti-terrorist’ legislation shows how crucial it is to have full rule-of-law procedures, a point I made years ago ([Casaca, 2015](#)). The lack of lawful procedures in such an antiterrorist framework allowed the world’s number one sponsor of terrorism (Iran) to obtain an immoral and unlawful blacklisting of its main opposition group. So too legislation following the Magnitsky Act and its European version could be deeply misused, were customary principles of rule-of-law not to be applied.

The International Day of Commemoration and Dignity of the Victims of the Crime of Genocide and of the Prevention of this Crime, in 2022, is the right occasion to start a movement demanding universal criminal accountability for past atrocities, at both the national and international fora.

The Bangladesh genocide will necessarily be a top subject in this agenda, but it should be articulated with other genocides and atrocities that have taken place more recently.

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