Of the Nation Born
Of the Nation Born
The Bangladesh Papers

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ZUBAAN SERIES ON SEXUAL VIOLENCE AND IMPUNITY
IN SOUTH ASIA
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Birangona

Bearing Witness in War and 'Peace'

BINA D'COSTA

On a mild September morning in 2011, three members from the ICT investigation team came to my house. The traffic in Dhaka city was horrendous. The investigators decided to make use of precious time by interviewing me on our way to the ICT. They were interested to hear about my work with the women who, by bearing witness to sexual and gender-based violence in the 1971 war, became its icons—birangonas—and those children who were born through violence, bearing witness to reproductive crimes—the war babies. While I have much respect for everything that they were doing to include the experiences of birangonas and war babies in their investigations into the violence during the war, I was quite taken aback by the abruptness of their questions. 'How many did you find? Where? Give us their contact details please...'

*This is an updated and revised version of an essay published in 2005, titled, 'Coming to Terms with the Past.' My thanks to Hameeda Hossain, Amena Mohsin and Justine Chambers for their comments on the drafts.*
My insistence that not many would be keen to share their stories publicly, especially with police investigators, was not so seriously considered; yet I did not give in so easily. Women's testimonies self-consciously serve within a liberation lineage where the most oppressed and 'invisible' subject is the powerful speaking woman, in this case the birangona. The narrating of history by birangonas and by other witnesses of sexual and reproductive crimes before the ICT importantly gives voice to the sexual and psychological torture used as a strategy by the Pakistani war machine during the war in 1971.

Waiting to testify for long periods before providing evidence and then having to face the accused and the defence team are not easy tasks. Yet birangonas testified in front of the ICT in an attempt to share their experiences in a public tribunal in 1992. They also testified in other women-friendly platforms, such as the Liberation War Museum in Bangladesh, at the Extraordinary Chambers in the Courts of Cambodia (ECCC) in 2012 and at the Comfort Women's Public Tribunal in 2000, also known as the Tokyo Tribunal.

Uncovering the truth from a shroud of erroneous national consciousness is a prerequisite for a nation's reconciliation with its own past. When the wall of silence that surrounds abuses of women's human rights breaks down with testimonies and evidence, how do we then translate emotions and passions into practical actions? This chapter addresses this query by focusing on the vulnerability of women survivors of the 1971 war whose needs both the state and the civil society have failed to address in a meaningful and responsive way.

The chapter begins by examining women's experiences of sexual violence and torture in the muktijudhyo (the Liberation War of 1971). It then goes on to provide a brief account of the war and the responses to birangonas in the immediate aftermath of the war. Through a brief analysis of the Peoples' Tribunal of 1992, this chapter then argues for a gender-sensitive and safe space for women to share their memories of sexual and gender-based violence during
this time. The final part of the chapter discusses the broader contexts of women's advocacy in the region and elsewhere in redressing rape and sexual violence.

THE CONTEXT: RECOVERING THE PAST

The Cambodian Defenders Project in partnership with the Victim Support Section of the ECCC convened the Asia-Pacific Regional Women’s Hearing on Gender-based Violence in 2012. Testimonies were presented by survivors and witnesses of sexual violence perpetrated during the conflicts in the region—Cambodia (1975–79), Bangladesh (1971), Nepal (1996–2006) and Timor-Leste (1974–99) (Cambodian Defenders Project 2012). Saleha Begum, 55 at the time of the hearing, was 14 years old in 1971. She recounted how the Pakistani army and their local collaborators, the Razakars, abducted her, her sister and one of her neighbours. ‘The soldiers committed all kinds of sexual orgy on us,’ she recalled, which included sodomy (ibid.: 17). Begum was also a witness to the torture, rape and murder of many girls during the conflict. She was raped repeatedly and brutally for two months in front of her sisters and other girls, which caused severe vaginal bleeding and permanent scars. Then she was transferred to the Golmari Camp in Khulna where she remained for another two months. Begum, her sister, and six other girls and women who became pregnant were taken to a nearby bridge to be killed. Although she was shot in the leg, she survived, but her sister and the other rape victims died that day. Begum gave birth four months after liberation, resulting in abandonment by her family and the community.¹

Begum started working as a domestic help and got married following Bangladesh’s independence. She told her husband about her ordeals in 1971 and he first wanted to divorce her but was deterred by the fact that she was pregnant again at that time. She gave birth to a daughter. Begum's in-laws abandoned her and rejected the daughter, who was unable to meet her paternal grandparents until she was 14
years old. Begum's daughter is very proud of her mother for speaking out (ibid.: 17–18, 39).

Mosamma Rajia Khatun Kamla, 55, in her testimony at the same hearing, said she was only 13 years old when she suffered rape, sexual slavery, unlawful confinement and torture (ibid.: 38). She was married off by her parents to protect her from the Pakistani soldiers and was sent to stay with her in-laws. When the Pakistani army attacked the village, she escaped to the forest along with her mother-in-law. She learnt the next day that her father had been killed, along with many other relatives. She was separated from her mother-in-law, and a Razakar tricked her into going to a military camp. There, she was stripped naked and tied to a pillar. She was raped by six soldiers one after another and was left tied to the pole for the entire night. Her vagina had been permanently damaged due to the brutal sexual violence. She was detained in the camp for fifteen days and repeatedly raped during that time. When her rapists were no longer able to perform vaginal sex because she was very swollen, they performed anal and oral sex, spreading the semen over her face. She witnessed many rapes, torture and executions at the military camp. After a fortnight, she was ordered to work as a cleaner in the camp and given the task of washing the Pakistani army uniforms although she could barely walk because of the injuries to her anus and vagina. She managed to escape by hiding in a pond. When the soldiers could not find her, they randomly shot into the pond.

Naked, she made her way to the other side of the pond with a bamboo stick. There, she found the house of an old woman, and the two hid together. The old woman gave her some bananas and clothes, and advised her to go to India as a refugee. On the road with others to India, she witnessed many atrocities, including rape and murder perpetrated by the Pakistani military and their Bangladeshi collaborators. Eventually she met muktijodhyas (freedom fighters) on the road who took her to a safe haven and provided her with medical care. When one of the muktijodhyas took her to his own
house, the woman there refused to allow her in. With no food, she slept in a cow shed and survived as she could in hiding by begging (ibid.: 17–18). She recalled, 'After liberation, I could not find work because people could see from my scars that I was a rape victim, and no one gave me food or shelter.'

The report further documents how Rajia Khatun was deceived by a man into working in a brothel. He assured her that it was a place for rape victims to get help. The report notes that at first the brothel owner, Shushuma, was much kinder than many others she had asked for help, giving her food and shelter, and allowing her to bathe. She was provided medical treatment for her vaginal injuries. She stated, 'Then I realized she was treating me so that she could use me as a prostitute' (ibid.: 18). When she refused to have sex with her first customer, she was beaten brutally. She was trapped and forced to stay for three years, where she eventually met her husband as a customer. After buying her from the brothel owner, he brought her to his house, where she discovered he already had one wife and three children. She was rejected by his family. Still, she remained and gave birth to two sons. When her sons were still young, one an infant and the other 5 years old, her husband died. She and her children were thrown out by her in-laws. With nowhere else to turn and two sons to support, she returned to prostitution. She said: 'I still remember those days, though forty years have passed, and still I have not received justice.' Her sons, now grown, have faced stigma throughout their lives because their mother was raped during the Liberation War. She concludes, 'I came here to share my story, but it is not about me only, but about the millions, all those who were killed, tortured and raped in 1971' (ibid.: 18–19).

These two testimonies vividly articulate the strategic use of rape as a genocide tactic in the muktijudhyo (D’Costa 2011, 2014). Although no accurate statistics are available, in Bangladesh it is generally accepted that in 1971 an estimated 200,000 Bengali girls and women were raped by soldiers. This figure has also been cited by feminist scholars elsewhere (Copelon 1995: 197; Manchanda 2001:
30). Scholars also cite that some 25,000 were forcibly impregnated (Brownmiller 1975: 84; Copelon 1995). Based on my own research, especially interviews with medical practitioners, social workers and government officials who worked at that time in Bangladesh, I believe that a very large number of women and girls, both Bengali and of other ethnic groups, such as the Biharis, were targeted during 1971 (see Siddiqi 2013). Yet, women's narratives that directly speak to the war crimes of 1971 have been excluded from the official construction of history making. Feminist authors, filmmakers and cultural activists from Bangladesh, on the other hand, meticulously recorded women's stories in their representations (Akhtar 1999, 2006; ASK 2001; Bobby 2015; Gazi and Lutfa 2014). In this context, certain narratives were privileged and valorized, while other narratives were silenced in order to create an 'acceptable' national story (Chowdhury 2015; Hossain 2010; Matsui 1998; Puja 1998, 2001).

National interpretations of rape and forced impregnation of women saw these experiences as being less about women themselves than about the challenge to Bengali nationalist and masculine identity (D'Costa 2014). While the war ended Pakistani rule in Bangladesh, existing power relations, political hierarchies, and limited political and cultural ties with Pakistan persisted. The inevitable struggle for power in the years following the war, divisions between liberation leaders and the heavy dependence of the governments on political and economic alliances, in particular with the Middle East, allowed conservative groups who sided/collaborated with Pakistan during 1971 war to re-establish a power base and a limited legitimacy. It was in this context that the culture of impunity in Bangladesh developed. After the war ended on 16 December 1971 with Indian army intervention, the three states involved in the war, India, Bangladesh and Pakistan, began prolonged negotiations over the release of approximately 93,000 Pakistani prisoners of war (POWs), including 15,000 civilian men, women and children captured in Bangladesh/East Pakistan (Burke 1973: 1037) but detained under Indian authority. The matter was complicated by the Bangladeshi
prime minister Sheikh Mujibur Rahman's insistence on trying 1500 Pakistani POWs for war crimes and the Pakistani president Zulfikar Ali Bhutto's reluctance to agree to it (ibid.: 1037–38). On 28 August 1973, India and Pakistan signed a treaty with Bangladesh's support, which provided repatriation of all POWs except 195 prisoners who Bangladesh insisted on prosecuting for genocide (for various statistics, see LaPorte 1972; Ministry of External Affairs 2000) and other war crimes (*Statesman Weekly*, 1 September 1973). Post-war tripartite diplomacy between India, Pakistan and Bangladesh, such as the 1973 India–Pakistan agreement and the Bangladesh–India repatriation proposals, stipulated that Pakistan would investigate and have the obligation to try those Pakistanis who were found guilty of war crimes. Pakistan also made similar promises in its submissions to the International Court of Justice on 11 May 1973. Unfortunately, these undertakings were not fulfilled afterwards.

Bangladesh's unwillingness and inability after 1975, when Sheikh Mujibur Rahman was brutally killed, to hold the perpetrators responsible for war crimes led to a brittle peace in the post-war state. There was growing frustration and resentment among its citizens about the fabrication of history through textbooks and governmentsponsored media to serve the need of authoritarian regimes in the post-1975 period until Ershad's resignation in 1990. Also, there were various kinds of international, regional and domestic pressures, including by families of persons stranded in Pakistan.2

Bangladesh's history has been written and revised during each change of political regime, a process further complicated by the influence of military and religious elites. Eventually, the reinstatement of some of the infamous pro-Pakistani political leaders who were directly responsible for the genocide committed in 1971 led to the construction of separate and parallel histories: one that exists in the official discourse and others that exist in micro-narratives, in memory and in lived experience. While the gender aspects of this deliberate suppression of women's experiences of sexual violence during conflicts have been investigated at length
by feminist researchers (ASK 2001; Butalia 1995a, 1995b, 1998; Das 1994, 1995; Hossain 2010; Ibrahim 1998; Menon and Bhasin 1996, 1998; Menon 1998 in South Asia, for example), what remains is the question of how to bargain with a patriarchal state without compromising the agenda for justice should suppressed stories come out. Local initiatives by Bangladeshi feminist or civil society organizations made several attempts to organize platforms for silenced voices to be heard, but they remain marginalized and unstable. The Peoples' Tribunal proceedings in 1992 (discussed later in the chapter) and the oral history publication by the ASK that came out in 2001 are two examples where pro-liberation civil society and feminist human rights organizations made efforts to bring women's voices to the foreground.¹ Before discussing these initiatives, it is important to first elaborate on the historical events of the 1971 war and the initial responses to birangonas.

**MUKTIJUDHYO: 1971**

Anti-colonial nationalism reached its peak in South Asia after World War II. Finally, on 3 June 1947, the British government announced the Mountbatten Plan, a policy statement that recognized the inevitability of the partition of India. The plan was implemented with the birth of Pakistan on 14 August 1947 under the provisions of the British Indian Independence Act 1947. Pakistan was composed of five provinces in two regions: Punjab, Sindh, the North-West Frontier Province (NWFP) and Baluchistan in West Pakistan, and East Pakistan that became Bangladesh later on.

During their years of union, the two regions of Pakistan enjoyed an uneasy partnership marked by intermittent regional, economic, political and cultural conflicts. Tension reached its peak after a national election in 1970 escalated into an armed conflict in March 1971. For over nine months, the Pakistani army tried to subdue the rebellious civilian Bengali population. A guerrilla insurgency began in March and with Indian armed assistance, Bangladesh
finally attained its independence in December 1971. Much has been written on this war, and in recent times various accounts have also documented women's diverse experiences of it.  

The Liberation War of Bangladesh was very much a story of women. Although the exact number is unknown, many women participated as active combatants in the war. They also assisted freedom fighters in a range of ways, for example, by hiding them in their houses in times of crisis, and providing them with food and medicine. When men in local communities fled in fear of army persecution or to fight in the guerrilla war, women took care of families. After the war, many widows were responsible for the children and elders. Finally, women were targeted for rape and forced impregnation by the Pakistani military.

The 22 December 1971 proclamation of the People’s Republic of Bangladesh declared the wartime victims as *birangona* (Gayen 2015). Soon after his return to Bangladesh in 1972, the first prime minister of Bangladesh, Sheikh Mujibur Rahman, popularly known as Bangabandhu, acknowledged that women made grave sacrifices for the ‘freedom of the country’ and emphasized that rape victims should be treated with honour and respect. In his speeches and in private conversations, Mujib reiterated his promise to rehabilitate women and used the word *birangona*. The literal translation of the word is ‘war heroine’. Originally, however, it was intended to honour all women—political activists, freedom fighters, rape survivors and so on—who participated in the national struggle (Kamal 2001). The term was also intended to give rape survivors an honorary status and to provide them with equal access to privileges in the public sector, such as the education and employment rights granted to male freedom fighters (Pereira 2002).

The term *birangona*, however, became a distinct marker or a boundary that identified these women as victims of rape and often subjected them to humiliation and abuse. As Faustina Pereira (ibid.) points out, by its very nature, the term was a restrictive privilege. So strong was the stigma of rape in Bangladesh that most women did
not take advantage of the title, 'because to do so would be tantamount to focusing on the scar of rape on the victim, thus forcing her to risk a social death' (ibid.: 62). However, it was not only the naming that added to the stigma but Bangladeshi society’s rejection of the women and girls who were subjected to sexual torture in 1971. The presence of the birangona is a stinging reminder to the state of how the norm of purdah, or female seclusion, collapsed during the war when men were unable to defend their women. Not only were women left unprotected and exposed to sexual violence, many were abandoned by their families after the war. Rahnuma Ahmed (2015) notes that through the discursive production and reproduction of ultranationalist forces, birangonas become socially vulnerable, ideologically marginal and eventually silenced.

As a response to this complex situation, concerned Bengalis, especially the cultural elite of the country, recently coined a new term: nari jodhya or women combatants. Men who fought in the Liberation War were referred to as muktijodhya, mukti meaning freedom and jodhya combatant. The most common translation of this is ‘freedom fighters’. In October 2014, the Jatiya Muktijodhya Council (JMC, National Freedom Fighters’ Council) formally recognized birangonas as freedom fighters.7 Parliament, on 29 January 2015, passed a bill to recognize birangonas as freedom fighters by preparing a list of their names. Monirul Islam the lawmaker from Jessore-2 constituency placed the proposal before the national parliament. Liberation War Affairs Minister A.K.M. Mozammel Huq said, ‘The Ministry of Education has been requested to include birangonas in the textbooks. Moreover, it has been discussed in making their allowance Tk 10,000’ (Daily Star, 30 January 2015). While this bill was passed unanimously, the house rejected another lawmaker’s proposal to rename birangona to bir konya (brave girl/woman). The minister commented, ‘It will not be wise to rename Birangona as it was named by Bangabandhu Sheikh Mujibur Rahman.’

The Ministry of Liberation War Affairs published a gazette notification on 12 October 2015 formally recognizing forty-one
women as freedom fighters. Figure 3.1 is a snapshot of a table published in the Dhaka Tribune on 13 October 2015, providing a crucial acknowledgement for the brave women of 1971 by naming them. This is significant for various reasons. It brings with it some forms of economic justice that the birangonas have demanded for decades. Those awarded the status will now receive an honorarium, rations and medical services. It is also interesting that while birangonas and women’s rights activists in their advocacy emphasized that Bangladeshi society must break the taboo and silence related to sexual violence, the government followed the usual line that women usually do not want to come forward. The minister explained: ‘We are in a discomfort as many of them do not want to publish their names due to social reasons…. However, the list will be updated regularly and their names will be published 30 years later so that they do not have to deal with social taboo’ (Dhaka Tribune, 13 October 2015).

**Figure 3.1: List of War Heroines Published in a National Daily**

Without an informed plan of action to change patriarchal traditions and societal norms from which the stigma emanates, the
introduction of new or innovative terms such as nari jodhya or these new measures might not prove enough to positively address justice for the birangonas. Although jodhya (a fighter) in its conventional interpretation implies an active combat role, the current regime has recognized various actors in the war as freedom fighters (see Note 7). Those birangonas who want to be recognized must be gazetted. At the time of writing, there were a total of 124 applications that the JMC had received, among which 80 were approved, verified and then recommended to the ministry for recognition. Even though both the JMC and the ministry included female officials in the process, the verification process involves several complex bureaucratic steps.

In addition, the conventional interpretation does not take into account the experiences of many women whose lives were changed dramatically by war outside this paradigm. Indeed, their sacrifice has virtually gone undocumented (not unseen). Despite some attempts to respond to their economic and security needs, the state has so far been unable to counter the social rejection of the birangona. On the other hand, the minister's reiteration of social taboo and stigma implicitly reinforces the belief that being raped in the war (even if it is for the nation) is something to be ashamed of, while fighting in the war is heroic. Shame and honour thus essentially shape birangona/nari jodhya construction by the Bangladeshi state.

LOOKING BACK AT VICTORY’S SILENCE

On 4 April 1971, the Bangladesh Armed Forces was formed with Bengali-manned battalions of the East Bengal Regiment (EBR) under the command of Colonel M.A.G. Osmani, a retired officer of the Pakistani army. During the first Bangladesh Sector Commanders Conference in July 1971, the battle zones throughout Bangladesh/East Pakistan were divided into eleven sectors for better management and coordination. Each sector had Bengali commanders in charge of the military operations; all of them had
defected from the Pakistani armed forces. Tajuddin Ahmed, the prime minister of Bangladesh's government-in-exile, on 11 April 1971 in a speech on Free Bangla Radio stated, 'Today, a mighty army is being formed around the nucleus of professional soldiers from the Bengal Regiment and EPR [East Pakistan Rifles] who have rallied to the cause of the liberation struggle' (Ministry of External Affairs 2000: 282–86). The Mukti Bahini (Liberation Army) faced no personnel problem as Bengalis volunteered by the thousands—estimated at 175,000—to join them. This also included a large number of deserters from the EPR, EBR and the Bengali police force (Rizvi 1987).

Internally, the overwhelming support for the Mukti Bahini created a sense of insecurity among the Awami League leadership, resulting in the setting up of yet another exclusive guerrilla force, the Mujib Bahini (named after Sheikh Mujibur Rahman), which comprised diehard supporters of both the Awami League (AL) and Mujib (Far Eastern Economic Review, 4 September 1971; The Times, 20 May 1971, 15 June 1971). As Bangladeshi society transitioned from violence towards a more democratic or liberal political system, various forms of masculinities continued to influence post-war society, forming yet another patriarchal social order. Countless muktiyodhyas, those who surrendered arms and returned to their civilian lives, lived in dire poverty. There were also those who continued to carry weapons and either became involved in criminal activities or were slowly absorbed by political parties. In addition, in the first five years of Bangladesh's sovereign life, the parallel politics between the Mujib Bahini and the Mukti Bahini created factionalism in its politics, which influenced the consciousness of Bangladesh's armed forces.

While both women and men participated in the struggle for independence as muktiyodhyas, women were generally excluded from most honorific titles and awards, and the highest bravery decorations of the Bangladeshi state were reserved for those who served in the armed forces. Acknowledging the courage and
sacrifice of male muktijodhyas, the government also awarded them with public service quotas to enter into various government departments. Bangladeshis commemorated them through patriotic songs, poems and literature. On the other hand, women were not beneficiaries of the actual or symbolic rewards. While there were no awards, even for women who were commended for their roles as active combatants, the government introduced a scheme for monthly pensions/grants and job quotas. Although neither men nor women participated in the Liberation War with benefits in mind, the government’s ill-planned and biased policies created frustration within the community.

Immediately after independence, some birangonas were treated with respect. Muktijodhyas in formal and informal conversations with me indicated that they helped the women rescued from the rape camps in any way they could, such as offering them food, water and medicine, and taking them to health care units or back to their families. Between 2001 and 2010, I have conducted a number of interviews with birangonas, war babies, muktijodhyas and the families of the victims. One of the freedom fighters I spoke with clearly stated, ‘We always treated the women with respect and we were genuinely concerned about their suffering.’

In contrast, the initial responses of the women’s families were not positive. In middle-class families, the issue of rape was treated with secrecy and many families never revealed their daughters were ‘taken’ by the Pakistani army. A shroud of silence covered their stories. Some families took pregnant women to clinics for abortions. When asked, Respondent B said:

It still remains as a scar in my heart. The government allowed abortion on a mass scale. They did not want any Pakistani child. Either they were to be aborted or to get out of the country as soon as possible. We had incubators and we were prepared to take the premature babies.'
Those families that could afford to exile their daughters to neighbouring India or one of the Western countries preferred abortions in order to quietly get rid of their family 'shame.' If the women were in an advanced stage of pregnancy, they were left in rehabilitation centres or clinics to give birth, after which the babies were given up for adoption. When I asked Geoffrey Davis, who worked as a physician in Bangladesh immediately after the war, if there were some women who were reluctant to have abortions or give up their babies for adoption, he said, 'Well... a few of them did...’ When asked if he knew what happened to them, he answered:

I have no idea. [The] ISS [International Social Service] was there to get as many babies as they could. Because there were less and less babies available for adoption in America and Western Europe and they wanted to get as many babies as they could get.

As I stated earlier, 25,000 cases of pregnancy were reported after the war. However, no official or unofficial statistics exist to my knowledge indicating the number of women who had abortions or the number of babies sent to other countries.

Several political developments could be identified that have contributed to the silence surrounding rape in Bangladesh. While the reintegration and rehabilitation of women into society was given the highest priority, rape as a sexual and reproductive crime received no significant attention from the government and the political elite despite its inclusion as a crime in the International Crimes Tribunal Act 1973. Bangladesh signed the Rome Statute on the Establishment of an International Criminal Court (ICC) on 17 July 1998 and now formally recognizes that rape, sexual aggression and gender-specific violence constitute war crimes and crimes against humanity. Bangladesh became the first South Asian state that ratified the Statute on 23 March 2010. Also, as mentioned earlier, post-war diplomacy between India, Pakistan and Bangladesh compromised the trial of war criminals and their
collaborators, which had serious consequences for seeking justice. Pakistan never kept its promise to carry out the trials against those who were charged. In addition, the gradual rehabilitation of Bengali collaborators of the Pakistani army into the Bangladesh political scenario at both local and state government levels silenced the micro-narratives through direct or indirect coercion. In particular, with the lifting of the ban on religious political parties (Jahan 1995: 97), the birangona issue was buried further.

In spite of the Mahila Parishad's and other senior women's strong support for rehabilitation, there was little space for protest and advocacy for women's justice during the fifteen years of military dictatorship. Instead of the advocacy for gender justice, senior women policymakers and practitioners were more focused on getting the birangonas reintegrated in the wider Bangladeshi society. The demand for justice for sexual and reproductive crimes of 1971 was occurring in the larger context for demanding justice for all Bengali victims of war crimes, but not in the context of gender justice. Consequently, there was no coordinated and sustained feminist movement/consciousness to make available a 'pro-gender justice' political language at this time.

While in the Pakistani context 'purity' meant creating a 'proper' Muslim identity that would fit the Muslim Pakistani imagination, in the context of Bangladesh, it meant 'purging' the state of Pakistani blood. Children were vivid reminders of the attack on a 'pure' Bengali identity. Therefore, the Bangladeshi state responded to the issue of wartime pregnancy in a way it perceived as legitimate: it exercised its authority over women's bodies and their maternal role through abortion and forced adoption programmes. The needs of the women were insignificant in this nationalist construction of identity. Clinics, international adoption agencies and religious organizations facilitated these programmes, acting as surface mechanisms for arms of the state, often against the wishes of some of the women, thereby victimizing them for a second time. As far
as Bangladesh was concerned, the task of flushing out 'impure' Pakistani blood was necessary for the honour of the new nation. The abstract notions of purity and honour are dangerous rationales for which women often pay heavily. The appropriation of birth, denying it and, when possible, stopping it through state abortions demonstrates the power of the state over women's bodies when they have little or no control (Das 1995: 55–83).

During this time women were symbolically distanced from birth by the nation-state's narrative. The abortion and adoption programmes carried out by the Bangladeshi government following the war indicate the forcible appropriation of women's bodies for the interest of the nation. In the context of the mass suicide of women during the partition of 1947, Urvashi Butalia (1998) argued that these actions were approved because women were protecting the purity of the community whose borders they constituted. Similarly, in 1971, the issue of 'choice' became even more problematic in terms of the complex intersections of gender, religion and national interests in which women were trapped. Social workers, government officials and medical staff working in the rehabilitation centres and clinics were, like the muktijodhyas, genuinely compassionate towards the survivors. Geoffrey Davis recalled many women's stories:

Some of the stories they told us were appalling. Being raped again and again and again by large Pathan soldiers. You couldn't believe that anybody would do that! All the rich and pretty ones were kept for the officers and all the other ones were distributed among the other ranks. And the women had it really rough. They did not get enough to eat. When they got sick, they got no treatment. A lot of them died in those camps. There was an air of disbelief about the whole thing... but the evidence clearly showed that it did happen.

In my interviews, I was particularly interested in knowing if the birangona women had a choice in the matter of pregnancy and the
high rates of terminations that took place. When I asked Davis if the social workers and the medical personnel involved respected women's choices to have an abortion or not, he replied:

Nobody wanted to talk about it. You could not ask questions and get an answer. Quite often it would be that they couldn't remember. And the men didn't want to talk about it at all! Because according to them the women had been defiled [emphasis mine]. And women's status in Bangladesh was pretty low anyway. If they had been defiled, they had no status at all. They might as well be dead.\(^{16}\)

Given the nature of social relations and family attitudes towards women, both Nilima Ibrahim and Maleka Khan, prominent social workers heavily involved in the rehabilitation programme of birangonas, in their interviews with the ASK oral history team, noted that women effectively had no choice.

The attitudes of and decisions taken by the social workers and medical staff in the rehabilitation centres similarly reflected patriarchal, traditional values about family, community norms and state policies, and they thus endorsed decisions to reintegrate women into society as soon as possible by keeping their trauma and ordeal a secret, contributing to the silencing in official documents and personal narratives. Respondent B, who worked in the rehabilitation projects and was particularly involved in the adoption programmes, commented: 'There was a wound. We tried to rehabilitate them, tried to accept the situation they were in. And we would never write names, neither addresses. Stigma would remain if people knew.\(^{17}\)

In the aftermath of the war in Bangladesh, Badrunnesa Ahmad, Bangladesh's first minister of education (1973–75), and Nurjehan Murshid, state minister for health and social welfare (1972–73) and minister of social affairs and planning (1973–75), in Parliament demanded justice on behalf of the birangonas. Yet there also existed
a vast power discrepancy between the birangonas and the social workers, government officials or others who were involved in the rehabilitation programmes undertaken by the government. The shame and stigma attached to sexual violence were not challenged. Instead, there was an implicit charity-focused approach that denied women the opportunity to voice their protests if they were unwilling to go ahead with the state’s prescribed policies. Women were cast as victims and only as victims did they deserve the state’s assistance. In these contexts, it was almost impossible for them to speak out as strong and outspoken survivors.

On 7 January 1972, in response to the development of women’s movements, the government set up the Central Organization for Women’s Rehabilitation to institutionalize women’s rehabilitation programmes and place them under the management of the national central women’s rehabilitation board, which coordinated the government’s post-war policies with regard to women. Sufia Kamal was the chairperson, who, along with Taslima Abed, Shahera Ahmed, Hajera Khatun and others, started the rehabilitation programmes in two houses in Eskaton, Dhaka (Scholte 2014). In 1974, the name of the board was changed by legislation to the Bangladesh Women’s Rehabilitation and Welfare Foundation. Eventually, the government changed the profile of the foundation and merged it under the Women’s Division of the Women and Children Affairs Ministry. Schemes such as those ‘to free women from the unchosen [emphasis mine] curse of motherhood’ (Gafur 1979: 555) and to encourage men to marry birangonas (ibid.: 429) reveal that patriarchal and traditional beliefs played out in decisions made in relation to these rehabilitation programmes. The state-sponsored abortion and adoption programmes clearly aspired to prioritize the national identity of Bengalis, identifying the children carrying Pakistani blood as liabilities to the purity of the nation-state. In an atmosphere filled with nationalistic passion and hatred towards Pakistanis, birangonas, who were already vulnerable and relied on the state’s prescribed policies, were unable to articulate resistance if they had
any. Since the pregnant body was a vivid reminder of the Pakistani father, birangonas' reproductive rights belonged to the nation.

As such, the primary goal of the state's rehabilitation programmes in relation to birangonas was not emancipative, but to reintegrate the women into the traditional gender roles they had previously performed as housewives, mothers or daughters, effectively silencing their experiences during the conflict. Women's own silence on the other hand guaranteed that the state's rehabilitation programmes remained unchallenged. This silence also ensured that the elite narrative construction of the past gained official acknowledgement. However, there were significant efforts made by notable individuals to reclaim the voices of women in the attempted prosecution of war criminals in the early 1990s. After the fall of Hussain Muhammad Ershad, women's groups and a range of civil society actors were much more explicit in their demand for gender-sensitive justice for crimes committed in 1971 and for crimes against minority women, such as in the CHT.

**QUESTIONING THE CULTURE OF IMPUNITY**

The 1971 war in Bangladesh led to a complete breakdown of state and community. The question of justice assumed great urgency, but there was no common understanding of how to achieve it. In the absence of legal norms or any nationally organized political forces, there were several individual and local efforts to respond to the demands for justice. The most successful of all these efforts were led by a single woman, Jahanara Imam. Rumi, her son, participated in the war as a muktijoddha and was brutally tortured and killed by the Pakistani army in 1971. Her book *Ekatturer Dinguli* (Those Days of '71) is an autobiographical record of the violence and was published in 1986.²¹

Popularly known as shahid jononi (martyr: mother), Jahanara Imam began a crusade in January 1992 directed against Golam Azam and other collaborators who had supported Pakistan during
the 1971 war, and engaged in atrocities and sexual violence against Bangladeshis (Ghosh 1993: 703–4). On 29 December 1991, Golam Azam was appointed the aameer (chairperson) of the Jamaat-e-Islami (hereinafter Jamaat), an Islamic nationalist party of Bangladesh (Kabir 1993: 11) that did not support the liberation movement of Bangladesh, which had its roots in secularism and Bengali national identity. The Jamaat members actively collaborated with the Pakistani army during the war (Jahan 1980: 58) and, as a consequence, along with some other religious parties, the party was banned after 1971 (ibid. 1995: 94). Following significant political changes in Bangladesh, in particular with the amendment in the Constitution in 1977 and the pro-Islamic tilt in the Zia and Ershad regimes, the Jamaat got involved in Bangladeshi politics once again (for details, see Shehabuddin 2008).

Under her leadership, the pro-liberation movement was coordinated and people from various corners, such as the intellectuals, students, freedom fighters (both men and women) of the 1971 war, war widows and families, especially children whose parents had been killed organized under Projonmyo Ekattur (Generation '71), supported a massive movement to hold a symbolic people's tribunal to bring Golam Azam and other war criminals to trial. Imam was elected chairperson of the Ghatok Dalal Nirmul Committee (Committee for the Elimination of Killers and Collaborators) created on 19 January 1992 (Kabir 1993) to demand trials of war criminals.

Under her, the National Coordinating Committee for Realization of Bangladesh Liberation War Ideals and Trial of Bangladesh War Criminals of 1971 was formed in February 1992, integrating the political parties in opposition and the cultural elite of Bangladesh to hold the people's tribunal. In Jahanara Imam's words: 'prompted by our commitment to the values of the Liberation War and love for our country and aggrieved by the failure of the government to try the war criminals,' the committee decided to unearth 'evidence of complicity of all collaborators of war crimes, crimes against humanity, killings and other activities' (cited in Ziauddin 1999).
After three months of intensive organizing and activism, the people's tribunal was held in Dhaka on 26 March 1992 and nearly 200,000 people from all over the country participated as witnesses (Dhaka Courier 1992). This massive popular movement demonstrated that Bangladeshis were indeed interested in seeking justice for 1971. Unfortunately, however, the quality of the commission's reports was very poor, the language emotive rather than reasoned, and it lacked details that would lead to any possible criminal prosecutions (Ziauddin 1999). After Imam's death in 1994, political differences significantly weakened the movement.

Despite the intervening years, the silence surrounding the rape of women in 1971 was still prevalent and sexual violence remained a well-guarded secret within the affected families. Some viewed the 'digging into the past' as an unnecessary exercise that would cause them more pain and misery, especially because no organized effort to seek redress had been made in the country. Moreover, various interest groups ignored the sensitive nature of the women's stories and the fact that disclosing their identities might contribute to the stigma they were forced to bear by their communities. For example, at the Dhaka People's Tribunal in 1992, the court was not able to hold the hearings of the testimonies of victims and survivors of the 1971 war due to a government-sponsored assault by the police on the organizers (Kabir 2000: 29). The government also filed cases of treason against the organizers (ibid. 1999: 20) that stagnated the movements afterwards.

The three rape survivors who were brought in from the rural areas of Kushitia, a southern region in Bangladesh, to provide testimonies were also unable to narrate their experiences. None of them had clear ideas about the tribunal proceedings, what their testimonies actually signified and what implications these public testimonies might have in their present lives (Begum 2001: 82, 86). The local activists who brought them to Dhaka did not ask them if they wanted to testify either (ibid.: 102) and they were left in the dark. Yet their photos and stories appeared in national newspapers the next day (Begum 2001; Dhaka Courier 1992). As a consequence,
because of strong ideas around purity and honour, these women were subsequently persecuted and excluded from participating in the life of their communities.  

Their ordeals were featured in the print media in 1996 (*Daily Shongbad*, 11 November 1996) and fresh interest in their stories brought them into the public arena again. This experience had a significant impact on the women’s increasing reluctance to speak with ‘outsiders’. In addition, women’s organizations became very sceptical about bringing *birangona* women to speak openly and testify about their experiences at public platforms. Most women still do not feel comfortable talking about the pain and trauma of 1971. Their discomfort is a combination of traumatic memories, traditional parameters of shame and purity, the stigma attached to the rape experience, the need to reintegrate into their society, and to address basic requirements for survival. In combination, all these have led the women to create their own negotiated survival techniques ‘just to get on with their lives’.  

In 1994, Nilima Ibrahim published a two-volume book, *Ami Birangona Bolchi* [This is the Birangona Speaking], the only available collection of testimonies of women survivors in print until 2001 when ASK published its oral history volume. In the preface of the 1998 edition, Ibrahim writes:

I promised my readers to publish the third volume of *Ami Birangona Bolchi*. However, I no longer want to do so, for two reasons. First, my physical condition: Writing about the Birangona affected me both physically and emotionally. Second, the present society’s conservative mentality. They [society] do not hesitate to call the Birangona sinners. Therefore, I don’t want to insult those women all over again who were not allowed to live an easy and normal life even 25 years ago.... In addition, many compassionate people requested me for their [*birangonas’*] contacts. I believe, it wouldn’t be right to rub salt on the wounds of those who we coldly banished from our community one day.
In December 1996, the Shommilito Nari Shomaj (a broad network of feminist activists in Bangladesh, hereinafter SNS) organized four women’s testimonies from Ibrahim’s book to be read on Bangladesh Television (BTV). After the telecast, a few birangonas contacted Nilima Ibrahim and the SNS to share their stories.28 There was a newspaper report on this, revealing that the SNS was approached by one of the women who bluntly said, ‘I was raped by Pakistani army in 1971’ (Khan 1997). When the SNS activists asked the women why they were coming forward after twenty-six years of silence, one of them replied, ‘Because now I am getting the courage to do so’ (ibid.). Several others gave similar explanations. One rape survivor stated, ‘I was raped and I would like to tell my son about it but do not know how to do so’ (ibid.). These women wanted the Pakistani government and its collaborators to be brought to trial internationally. It was the crucial factor in their decision to communicate with Ibrahim and other social workers, whom they trusted. Despite the reactions of birangonas as a result of the TV show, with the memory of the previous trial in 1992 still fresh, women’s groups remained sensitive in bringing the women to face the public.

Until her death in June 2002, Ibrahim refused to reveal any personal information about the women. In her conversation with me in 2000, she mentioned that she was very concerned about the renewed interest in publicizing the stories of birangonas. I realized that she wanted to protect the women’s privacy and did not want to cause any further harm to them.29 This reaction was not surprising, considering the way in which women’s stories have been exploited or used without any legal, financial or moral support being offered in return.

Nonetheless, their testimonies are crucial for war crime trials to demonstrate the gendered nature of the 1971 war and the state policies afterwards. It is my contention that a gender-sensitive space can be provided for the birangonas to speak about their experiences in a way that keeps them and their stories safe from further persecution and violence. As I specify later in the chapter,
informed strategies, in particular learning from women's groups and movements elsewhere in South Asia, can assist Bangladeshi women's groups to pursue this sensitively, with the *birangonas'* interest foremost in mind.

A small but significantly important number of *birangonas* have been prepared to come forward and document their narratives. Although women's groups did not pursue the issue, *birangonas* have also still maintained their demands for justice. Ferdousi Priyobhashini, another courageous *birangona* woman who came forward with her story wrote: 'I am one of the 250,000 raped women of '71. I am telling you these stories because those who killed 3 million Bengalis in '71 and raped 250,000 women still have not been brought to justice' (1999: 67).

When I visited Bangladesh in 2002 and spoke with Halima Parveen, she reiterated the demands of other women.³⁰ Halima apa (sister) fought in the war and was raped in captivity. She indicated that she would testify and encourage other women to do so and stated, 'I will fight with even the last bit of strength I have in my body to demand justice from Bangladesh government and from Pakistan.'³¹ It is evident that despite the hardship and possible consequences of disclosure, if an appropriate forum is provided, women will come forward to speak. Their desire to tell their stories is evidence that if an action-oriented network is organized to seek justice for crimes committed during the 1971 war, some *birangonas* would be interested in participating. Sharing their war memories in a woman-friendly environment, sensitive to their traditional and cultural restrictions, can help facilitate the participation of many *birangonas* in this kind of network.

The Muktijuddho Jadughor (Liberation War Museum, LWM) in Bangladesh has undertaken the initiative to record the experiences of *birangonas*. In documenting women's experiences of the war, LWM researchers have used gender-sensitive approaches such as maintaining confidentiality and conducting closed-door interviews. In several conferences and public events, LWM speakers such as
Mofidul Hoque have raised the importance of ensuring justice for birangonas.

Although making women visible is necessary, by itself it is not enough to enable feminists to provide a full analysis of women’s exploitation within the nation-state system (Rai 2002; Waylen 1996). While it is possible to arrive at a macro-level understanding of nationalism’s gender-blind approach, without looking at micro-level and regional politics, a feminist scholarship of post-conflict situations will be unable to address the ‘woman question’ in diverse locations. Similar to other regions in South Asia, cultural and regional experiences of women vary immensely and women respond quite differently—and sometimes from contradictory positions—according to their backgrounds, education and politics. Birangonas, especially those who live in rural areas, might lack the means to reflect upon and to articulate their own experiences except through the socially accepted norms with which they are already familiar. Focusing on the lived reality of women and offering them choices so that they can decide for themselves whether or not they have been silenced in the national history making of the state may be more important. This might create the social awareness necessary to serve as the driving force behind a common platform of action.

FRAMING WOMEN’S ISSUES IN BANGLADESH

Despite holding diverse views, Bangladeshi women’s organizations have successfully raised numerous feminist issues. The space of social activism is occupied by activists well versed in the social and political movements of South Asia. As political activists, Bengali women contributed to the anti-colonial nationalist struggle for the independence of the Indian subcontinent. During both the anti-colonial movement against the British and the Bangladeshi national liberation movement, Muslim Bengali women appeared in public and participated in protests, demonstrations and other forms of
political campaigns for the freedom of their land. Their visibility became an important symbol in the Bengali national movement.

During the national movement of independence for Bangladesh, women organized and participated in protests against the repressive measures taken by the military regime of Pakistan. The military regime detained numerous political activists and leaders without trial during 1966–70. A group of young women activists, most of whom were associated with leftist organizations, approached the AL, the strongest political party in East Pakistan, and with the help of political leaders, formed a joint women’s action committee to organize protests by the wives and mothers of political prisoners for their release (Jahan 1995: 93). The Bangladesh Mahila Parishad (Women’s Caucus, BMP) in 1972, which is the oldest and largest women’s organization in Bangladesh, also started as an offspring of the Communist Party of Bangladesh.

Movements for national liberation are rarely extended to the autonomy and liberation of women (Moghadam 1994: 2). Both during the liberation struggle in 1971 and in the aftermath of the creation of Bangladesh, women activists enthusiastically expressed their solidarity in the construction of the new nation-state. However, as Rounaq Jahan (1995) observes, despite their significant role in the war, the new government soon marginalized women. The policies for the rehabilitation programmes in Bangladesh after 1971 were introduced irrespective of women’s wishes and consent. While these were often justified as pragmatic alternatives in order to counter stigma and social rejection experienced and feared by rape victims, these practices are evidence of the ways women’s rights are subsumed and subordinated under national ‘rights’. Generally, women’s liberation has been regarded as being unfavourable to the identity and existence of the nation (Kumar 1993; Menon-Sen 2002; Sobhan 2003). During the 1971 nationalist struggle, Muslim Bengali women went out on to the streets in active resistance. This liberating gesture served several purposes: it demonstrated to the Pakistani rulers that Bengali culture was different from West Pakistani
traditions, that Bengalis shared similar cultural values irrespective of whether they were Hindu or Muslim, and that Bengali women were more liberated than West Pakistani women. Many Muslim Bengali women participated as activists in their country's national movement. Their unique cultural identity became their symbol and the use of the phrase 'Muslim Bengali woman' had a political rather than a religious connotation.

Although their political activism played a crucial role in achieving independence, after their country was born, these women were encouraged to go back to their traditional roles as wives, mothers and daughters, and as protected and vulnerable beings. Moreover, the national movement was not concerned with women's 'actual' emancipation. As a result of their exclusion, the Liberation War failed to achieve freedom for all of its citizens. Nationalist rhetoric had served to consolidate emotion in order to create an active struggle against the Pakistani army using the situation of women, but in reality, women were still seen to belong in the private sphere, situated in a complex construction of traditional, religious and cultural values.

Traditionally, the honour of the family is linked to the virtue of its women and men are responsible for protecting this honour (Kabeer 1998: 100). The image of Bengali women as cherished and protected mothers, wives and daughters was, over the years, challenged by an awareness that women are subordinated in the hierarchical gender relations in Bangladesh, which denies them both social power and autonomy over their own lives. The experience of 1971 helped women raise their concerns about their subordination. The norm of female seclusion and the so-called 'safety' of the private sphere was shattered in 1971 when women could not be protected by their men against aggression and were then abandoned, through no fault of their own (Jahan 1995: 102).

Since the Liberation War, a Bengali ruling class comprising an unstable class alliance of an underdeveloped bourgeoisie, the military and the bureaucracy has been in power (Kabeer 1998: 99).
Though regimes have changed, increasing impoverishment and social differentiation, and a steady rise in aid dependency have persisted. At the same time, increased violence against women in both the public and private spheres has helped develop a greater awareness of the position of women in Bangladesh. This awareness has also been informed by developing communication with other states and increased participation in transnational feminist programmes, including attendance at international conferences, workshops and dialogues, and a significant interest worldwide in addressing gender inequality.

Interestingly, the nascent women’s movement did not work actively to mobilize support for rape victims. In reflecting on the reasons for this, women leaders offer a variety of perspectives. Many groups and individuals were hesitant to challenge the society’s strong patriarchal traditions and feared that doing so would invite a backlash that could hurt the victims more. There were very few groups, with limited scope and membership, and as such still quite vulnerable. Even some organizations, such as the BMP, which later vocally and successfully challenged the government’s stand on gender violence, did not articulate a position on rape at this time.32 Some organizations and individuals also wished to remain ‘apolitical’, implying that even after more than three decades of independence, the stories of women can make some powerful groups ‘uncomfortable’ and ‘angry’. Cautioned by the drastic curtailment of women’s rights in Iran and Pakistan that accompanied the rise of political power of Islamists (Jahan 1995: 98), the Bangladeshi women’s movement sought to build public opinion in support of secular politics. During the United Nations Decade for Women (1976–85), Bangladesh’s governments invited women’s groups to advise in preparing official reports for intergovernmental discussions and agreements that provided the opportunity to women’s groups to articulate their positions in the government agenda (ibid.). With gender equity and poverty alleviation programmes at the forefront of development planning,
Bangladeshi women researchers and NGO employees were invited to voice their opinions in international conferences and workshops. This opened up the possibilities of cross-border dialogues. To serve the interests of their development policies, governments encouraged dialogue and the sharing of views and information with women's groups in other countries. Despite the changing political situation in Bangladesh, this facilitated dialogues among women inside Bangladesh and enabled them to create partnerships with women's organizations overseas in order to address specific issues, especially development and women's empowerment.

While an increase in women's status is essential for gender equity, the issue of violence against women has also been addressed strategically by women's organizations. For example, ASK, the Bangladesh Legal Aid and Services Trust (BLAST), Shashob, Shakti and Naripokkho publicized cases of dowry-related family violence and murder, acid throwing and rape (including rape in police custody and rape of adolescents), creating a public outcry. Their history, activism and the contemporary politics of Bangladeshi nationhood within which a vibrant feminist movement thrived, saw these organizations adopt agendas that addressed violence against women, patriarchal dominance, common class problems, labour exploitation and unequal economic arrangements within specific national contexts. The activism of non-state actors organized into local networks has had a positive impact in agenda setting, framing and spreading norms, and changing state practices.

The similarities of women's movements in the Indian subcontinent derives from the fact that India, Pakistan and Bangladesh have a shared colonial national past that utilized the situation of women for the existence of the nation-state. Furthermore, regional workshops, conferences and academic exchanges between activists and scholars regarding women's rights have contributed to the growth of a shared and coherent women's networking and intellectual activism in South Asia. Based on common cultural and traditional backgrounds, and on the shared history of nation building in different states, these
networks have exchanged ideas, formulated strategies and developed new ways of addressing the historical abuse of women and seeking restitution in the present (Bunch and Reilly 1994; D’Costa 2011; Keck and Sikkink 1998; Puja 2001; Thompson 2002).

Feminist analyses have contributed to our understanding of sexual violence in armed conflicts, women’s roles in peace building, masculinities and violence, gender and national identity politics, and testimonies and memory (Askin 1997; Chinkin 2006; Seifert 1993). However, an assessment of jurisdiction, law and evidence validate that these remain a challenge in prosecuting sexual and gender-based violence as an international crime. In a conference marking the tenth anniversary of the ICTR judgement on the Akayesu case, Navanethem Pillay, the UN High Commissioner for Human Rights, who also served as a member of the Trial Chamber, explained:

Rape and sexual violence are sustained by the patterns of gender inequality which cut across geo-political, economical and social boundaries. Justice is needed on the individual and national level to redress rape and other expressions of sex inequality that women experience as a part of their everyday lives, as well as on the international level for sexual violence and other crimes perpetrated in times of conflict and war that are not effectively addressed at the national level. (2010: xiv)

This case significantly expanded the international community’s ability to prosecute gender-based war crimes; and the jurisprudence provided by this has been taken as a starting point to review rape laws elsewhere (ibid.: xv). A collection of essays that came out from the ICTR tenth anniversary conference provides critical appraisal of recent developments in rape laws, across a range of diverse jurisdictions. Various national jurisprudence considered in this collection reveal that wide-ranging efforts have been made, allowing a diversity of approaches and traditions. The authors contributing to this volume explain national and international rape
law concerns and developments. A particular insight offered by a number of authors and relevant to this discussion is that constant pressures from feminists have led to rape law reforms. For example, in post-conflict Croatia, voices of feminism and women’s activism have been crucial in placing concerns of sexual violence in the political agenda (McGlynn and Munro 2010: 168–82; Radacic and Turkovic 2010), and in both Australia and the US, sustained feminist activism achieved changes in the formal laws and policies on rape (McGlynn and Munro 2010: 10–11). It is also noted that England and Wales have one of the lowest rape conviction rates in Europe, and despite feminist pressures and reforms and convictions, the sentencing of individuals has been inadequate. Some of the prejudices of national law, such as the divide between private and public spheres, that usually left family relations and abuse in the domestic sphere and outside the protection of national law, is also present in foundational international law, which considers the treatment of citizens as a private matter for each state (Cole 2006; McGlynn and Munro 2010: 45–50).

It took decades for the international community to seriously consider and investigate sexual crimes. Four international criminal justice institutions, namely, the ICTR, the ICT for the Former Yugoslavia (ICTY), the Special Court for Sierra Leone (SCSL) and the ICC played a key role in acknowledging that rape, forced marriage, sexual slavery and forced prostitution are war crimes, crimes against humanity and in some instances acts of genocide. The ground-breaking Akayesu case before the ICTR was the first time when an international court recognized that rape constituted an act of genocide. The text of the Akayesu judgement made a discursive shift by naming both women and girls as victims of violence. The Tadic case before the ICTY was the first where a defendant was specifically charged with rape and sexual violence as crimes against humanity and war crimes. Also, the Kunarac (Foca) case before the ICTY resulted in the first international conviction for rape, torture and enslavement of women and girls as crimes
against humanity. However, legal precedents are not enough to oppose sexual and gender-based violence. The capacity of women to be involved in designing their own empowering activities is crucial in any effective justice approach.

CONCLUDING REMARKS: INTERNATIONAL CRIMES TRIBUNAL AND BIRANGONA TESTIMONIES

*Birangona* experiences have been used in Bangladesh by the ICT in various cases. A prosecution witness in the trial of A.T.M Azharul Islam, assistant secretary general of the Jamaat-e-Islami party and the commander of the Rangpur district unit of Al-Badr in 1971, testified that he, along with three Pakistani army personnel, tortured and raped a pregnant woman for about nineteen days at Rangpur Town Hall in 1971. As a result, she lost her six-month-old foetus in womb. Mujibor Rahman Master, the eighth witness of this case to the ICT-1, mentioned in his testimony that he had heard about this incident from the victim. Azharul Islam was found guilty on five counts of mass murder and rape, and was sentenced to death.

On 8 May 2014, Abu Asad, third prosecution witness in the case against the Jamaat leader Abdus Subhan, told the ICT how he was forced to work with Subhan who carried out atrocities in Pabna during the war. Asad, a member of Mujahed Bahini, a collaborating paramilitia unit stated, ‘I also witnessed how the Pakistani army had raped wives and daughters before their husbands and fathers and shot the raped women.’ At this point, he broke down and verified, ‘Subhan Saheb was present with the army at that time.’ Subhan has also been sentenced to death for his involvement in targeting Hindus during 1971.

Another witness, Momena Begum, gave her testimony in an in-camera trial that eventually led to the sentencing of Kader Mollah, another Jamaat leader. Mollah was executed in 2014. Momena Begum, like the women whose narratives are introduced earlier in
the chapter, was only a young girl (12 years old) during the war. Similar to other minors, she was a witness to the war. Her name was not disclosed when the original verdict of life sentence was announced. However, her testimony was publicized and her name disclosed when the Appellate Division converted his life sentence to a death sentence. Her testimony came under direct attack from critics of the tribunal who asked whether a young girl of that time could identify Mollah so easily. A senior justice campaigner in Bangladesh told me, ‘We have talked to many victims. Unfortunately, the ICT accidentally disclosed her name. This was quite traumatic for Momena in particular.’ As the chapter argues, women who were victims in 1971 and agreed to provide their testimonies must be protected first to ensure justice.

Even as the increased recognition of rape and other forms of sexual violence as international crimes is lauded as furthering the commitment to address gender-based violence in Bangladesh, it also sparks concerns. Some of the prosecutions provided even less hospitable experience for victims of sexual violence as there was no trauma counselling available. Momena’s case described earlier also demonstrates a lack of gender sensitivity and maintaining the confidentiality of victims. While birangona experiences were included in trials, they had very limited agency in the inherently masculine court environment, which used its jurisdiction for international crimes of sexual violence to promote its own justice agenda. Hirsch and Sarkis (2015: 518) argue that ‘if a nation uses sexual violence prosecutions to advance its own policies, agendas, and ambitions, women’s experiences of violence will be discounted as will the overall struggle against sexual violence.’ There is a need to recognize and change traditions that violate women’s human rights in both public and private spheres. It is also critical to ensure that after the ICT proceedings conclude, birangonas are not forgotten, as was the case after the 1992 Peoples’ Tribunal. They need protection from the state. Economic resources are finally trickling down to some of them following the recognition of
their freedom fighter status. Their equal participation in matters important to them, such as economic justice, livelihood, health, and education and employment access for their children, must be ensured. Lessons learned from their experiences in the aftermath of the war are invaluable in improving reporting and investigation; to enable future prosecution in domestic criminal courts as well. As such, *birangonas*, as victims, survivors and witnesses of 1971, could truly be the icons for prevention of any kinds of violence against women in Bangladesh.

NOTES

1. At this point, Begum became emotionally overwhelmed and ended her testimony. She left the hearing accompanied by a psychosocial support person.

2. For details, see D'Costa (2011).

3. The ASK initiated the Oral History Project. Some of the important interviews were published in *Narir Ekattor* in 2001. In Bangladesh, the term ‘pro-liberation’ (*shadhinotar pokhye*) and ‘anti-liberation forces’ (*shadhinotar bipokhyo shokti*) have been invoked by the media, activists and academics to differentiate between interest groups such as civil society actors, political leaders and others who supported the justice campaigns and who advocated against revisiting the atrocities of 1971. Many in the pro-liberation lobby either participated in the war or are sympathetic to it. Individuals in the anti-liberation lobby have often been accused of collaborating with the Pakistani army or showing some bias towards the religious right. After the ICT proceedings began, these terms have acquired new meanings in the war of rhetoric and propaganda campaigns.


5. This is particularly evident from Respondent A’s (who wishes to remain anonymous) interview. I spoke with her in Kolkata, India, in January 2000. She played a major role in the rehabilitation of the women. She mentioned that they focused on female-headed households after the war as their numbers had increased. She said:
We also did some rehabilitation work for women on the other side of the Buriganga [a river next to Dhaka]. All were Hindu women. No men, no grown-up boys. The army killed all the men. They dug up a big hole where they buried all the men. And also the grown-up boys. Women were left alone. We started a programme for helping the women. I gave each woman [money] to do some small business. They made a little extra. Afterwards, they continued to work with that small savings. Then we gave them geese, ducklings, chicks and goats. For the next three years we helped them to stand on their [own] feet. That is how Jagoroni [a handicrafts shop in Dhaka city run by Catholic nuns] came into being. It was the Widows' Programme.

6. Nayani Mookherjee (2015: 129) also notes that Minister Kamruzzaman used this nomenclature in December soon after his arrival in Dhaka.

7. It is estimated that over 100,000 people took part in the war against Pakistan. In a recent interview, the Liberation War Affairs Minister A.K.M Mozammel Haque provided a list of freedom fighters, which included in the Laal Mukhtarta, India's list of Bangladeshi fighters; freedom fighters certified by Prime Minister Sheikh Hasina; those who crossed over into India and registered for training; servicemen who worked to create public opinion for the Liberation War; the Mujibnagar government employees; members of the armed forces, police, then East Pakistan Rifles, Ansars who fought in the war; MLAs and MPs of the wartime government. In addition, artists and performers of Swadhin Bangla Betar; journalists who played leading roles after the liberation; Swadhin Bangla football team members; and doctors, nurses and their assistants who treated the wounded freedom fighters and officials at offices under the Mujibnagar government too will be eligible for the status. The minister also mentioned that those who were at least 15 years old on 26 March 1971 could apply for the status.

8. The monthly allowance for a freedom fighter aged over 65 is USD 129 (BDT 10,000). The war-wounded gazetted freedom fighters also get tax exemption for an annual income of up to USD 5,490 (BDT 425,000). In addition, children and grandchildren of freedom fighters
will be entitled to receive reserved quotas in public recruitment and enrolment in educational institutions.


11. Interview with Respondent B, social worker, 7 February 2000, Kolkata, India.

12. Ibid.


14. The partition of India in 1947 sparked violent communal riots between Hindus, Muslims and Sikhs. In March 1947, four months before the actual partition, some Sikh villages in the Rawalpindi area of Punjab had been attacked in retaliation of Hindu attacks on Muslims in Bihar. The story of ninety women who drowned themselves by jumping into a well at Thoa Khalsa, a small village in Rawalpindi, when their men were no longer able to defend their honour is still discussed today in tones of admiration and respect. For details, see Butalia (1998: 146–84).

15. Interview with Davis, 2002.

16. Ibid.


18. For details on sexual and reproductive programmes, see Hossain, Ahmed and Khan (1973). I thank Rahnuma Ahmed for alerting me to this important publication.

19. It is not my contention that many birangonas did not want to go through abortions or the adoption programmes. However, without recovering the voices of the women themselves, we would not be able to decipher the meaning of choice that could be either voluntary or coercive, especially when motherhood that belonged previously in the private domain was now controlled by the state.

20. The Bangladesh government gradually eradicated the programmes principally designed for birangonas and is said to have allegedly destroyed their records.
21. The book was translated into English in 1991 with the title *Of Blood and Fire: The Untold Story of Bangladesh's War of Independence*.

22. Golam Azam fled East Pakistan just before it became Bangladesh. In 1978, he returned to Bangladesh and has lived there since as a Pakistani national. The ICT found him guilty of five charges and sentenced him to ninety years in prison. He died in late 2014. On 21 March 1981, there was a demand from freedom fighters under the banner of Bangladesh Muktijodha Shongshod (Freedom Fighters' Association) to try Golam Azam and other collaborators for war crimes in a people's tribunal (Kabir 1993: 15–19). This movement faltered due to government intervention.

23. It was founded on 26 August 1941 by Syed Ab'ul Ala Maududi as a movement to promote social and political Islam. After independence, it began to operate in Bangladesh as Bangladesh Jamaat-e-Islami. On 1 August 2013, the Bangladesh Supreme Court declared the registration of the Jamaat illegal, ruling the party unfit to contest in elections.

24. In May 1977, Article 38 of the Constitution banning the use of religion for political purposes was revoked, clearing the way for religion-based parties to get back into Bangladeshi politics (Anisuzzaman 2000: 59).

25. The Bangladesh Nationalist Party-led government was against this symbolic tribunal. The BNP won the election on 27 February 1990 with 140 seats and formed the government with the support of the Jamaat.

26. The three women come from rural and traditional areas where purdah and izzat (honour) have very strong social meanings. The tribunal organizers were not sensitive to this.

27. Interview with *birangona*, 1999.


29. Ibid.

30. My sincere thanks to Shaheen Akhter for introducing me to Halima Parveen.

32. Maleka Begum differs on this and noted that both herself and Begum Sufia Kamal were advocating for women's justice since Bangladesh became a state.
34. For details, see Walsh (2013: 62–65). For an overview of the jurisprudence addressing sexual violence in international courts and hybrid tribunals, see D’Costa and Hossain (2010).
37. Dragoljub Kunarac was one of the eight individuals named in the first indictment, issued in June 1996, dealing with sexual offences. This significant indictment covers the brutal regime of gang-rapes, torture and enslavement, which Muslim women and girls of Foca and elsewhere were subjected to between April 1992 and February 1993 by Bosnian Serb soldiers, policemen and members of paramilitary groups, including some coming from Serbia and Montenegro. Prosecutor v. Kunarac (Trial Judgement), ICTY, case nos IT-96-23-T and IT-96-23/1-T, 22 February 2001.
38. Islam was 61 years old at the time of writing, which makes him 17 during the war.

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