
Bangladesh at 50: Ethnonationalism and Genocidal Logics in the 1971 Bangladesh War of Independence

Introduction

The 16 December 1971 marks the 50th anniversary of Bangladesh's independence from Pakistan. The breakup of Pakistan, previously divided into West Pakistan (the Pakistan of today) and East Pakistan (Bangladesh), marks a monumental historical junction in the history of modern South Asia and had distinct implications: for Bangladesh, it meant liberation from oppressive Pakistani rule. For Pakistan, it resulted in the breakaway of the country's most populous province and the loss of the status as the sole homeland for the Muslims of the Indian subcontinent. Since then, both countries have developed in distinctly different ways: while Pakistan continues to struggle with a hampered economy and various forms of extremism both within and outside of its borders, Bangladesh has registered significant economic growth and a comparatively secular social system.

The national memories and narratives connected to the Bangladesh war of independence, fought between late March and mid-December 1971, continue to shape political processes in both Bangladesh and Pakistan. For Bangladesh, independence from Pakistan was paid for in blood: the government in Dhaka claims that up to three million Bengalis were killed by Pakistan during the war while up to 400,000 girls and women are alleged to have been raped by the Pakistani Army and their affiliated paramilitary forces, the so-called Razakars (Hossain, 2012; Human Rights Watch, 2011). The wounds of 1971 consequently still cut deep and are deeply ingrained in Bangladesh's political culture: after 1971, the term Razakar, originally meaning 'volunteer', has now come to be used interchangeably with 'traitor' (Chowdhury, 2013). Furthermore, Bangladeshi, Indian and international news coverage frequently refers to the events of 1971 as a genocide committed by Pakistan (Dhaka Tribune, 2021; Dutta, 2020; Islam, 2021). In Pakistan, in contrast, there is little public and governmental discussion not just on the breakup of the country but also on the atrocities committed by the Army and the Razakars during the war (Lieven, 2011). The way in which the Bangladeshi war of independence is remembered in both countries consequently diverges significantly.

This paper, written in commemoration of fifty years of Bangladeshi independence, retraces the origins of the war and its violence. The paper is less interested in describing the events of the war but rather seeks to contextualize the build-up to the war while also aiming to develop an explanation as to why the armed forces of Pakistan behaved in a way that has been frequently described as a genocide. The main point of interest here is whether the committed atrocities were a deliberate component of military strategy or whether these actions were more organized in an ad-hoc manner on the ground. Pakistani conduct prior and during the war, it is argued here, derived from a perception of Bengalis as ethnically and culturally inferior, a conception based on the racial classifications developed under British rule, was the

base of these atrocities. This social-normative context enabled the development of a genocidal logic that justified the elimination of Bengalis once war broke out. Genocidal conduct thus reflected these socially ingrained values rather than an outright part of (written) Pakistan's military strategy.

To elaborate on this argument, the paper is structured as follows. First, the paper discusses the 1947 partition of British India along religious lines in line with the Two Nations Theory proposed by Muhammad Ali Jinnah. Jinnah's focus on religion, it is highlighted here, insufficiently accounted for how other identity markers shaped senses of political belonging. These differences were reflected in the political and social structures between East and West Pakistan that came to directly favour West Pakistan. Sentiments of political alienation contributed to demands for East Pakistan's independence. After briefly discussing the events of Operation Searchlight and the war of independence, the paper turns to discussing the Hamoodur Rehman Commission (HRC) report, a 1974 Pakistani investigation into the 1971 war that remained classified until 2000. The HRC report examines questions of responsibility and provides a valuable insight into how the events of 1971 were conceptualized in Pakistan. Lastly, the paper discusses the applicability of the concepts of genocide and genocidal rape to describe the conduct of Pakistan, concluding that military behaviour was an expression of deeply ingrained social norms rather than a component of formulated military strategy.

Partition and the two Pakistans

As is the case with many of the historical and contemporary conflicts in South Asia, the violence of 1971 is inextricably tied to the experiences and ramifications of British colonialism and the partition of British India in mid-August 1947. Under British rule, the Raj had been a multi-ethnic, multicultural, and, crucially, multireligious space. The partition of British India along religious lines into a Secular Hindu-majority country (India) and an Islamic Muslim-majority country that was split in two (East and West Pakistan) was based on the idea that Hindus and Muslims constituted two inherently different groups/nations. This chapter first elaborates on the build-up to partition before discussing East Pakistan's political status in the broader Pakistani political system. The disempowerment of East Pakistan, based upon racialized understandings of Bengalis as inferior and Hindu-like, gave rise to the secessionist demands that ultimately led to the Bangladesh war of independence.

The Two Nations Theory and the partition of British India

Demands for the independence of British India had intensified during the first half of the 1940s and produced diverging ideas of what a post-colonial India was to look like politically. Pro-independence movements were not unified but often organized along religious lines, with the most influential organizations reflecting the Raj's two largest religious groups. The Indian Congress Party which claimed to represent all British India's citizens was led by Jawaharlal Nehru whereas Muhammad Ali Jinnah was the head of the All Muslim League, claiming to represent only the Muslims. While both Nehru and Jinnah sought to achieve the

independence of British India, their ideas for a post-colonial subcontinent diverged heavily. A staunch unionist, Nehru envisaged a post-colonial India to remain unified under a centralized government that would represent all religious groups in the country. Within Hindu circles, this ambition was not without contestation: in the 1920s, the thinker Vinayak Damodar Sarvkar had begun arguing that Hindus and Muslims should live separately from one another as Hindus had a distinct Hindu-ness (Hindutva) that differentiated them from other, non-Hindu groups (Jaffrelot, 2007). The aspiration to divide India along religious lines was eventually adopted by Jinnah, who elaborated on this ambition in a speech in front of a 1940 Muslim League conference in Lahore. In the so-called Lahore Resolution, Jinnah (1940) proposed that

“[N]ationalities which are as divergent today as ever cannot at any time be expected to transform themselves into one nation merely by means of subjecting them to a democratic constitution and holding them forcibly together by unnatural and artificial methods of British Parliamentary statutes. What the unitary government of India for one hundred fifty years had failed to achieve cannot be realised by the imposition of a central federal government. It is inconceivable that the fiat or the writ of a government so constituted can ever command a willing and loyal obedience throughout the sub-continent by various nationalities, except by means of armed force behind it”.

Jinnah saw the differences between Hindus and Muslims as inherently cultural ones. *“It is extremely difficult to appreciate”*, Jinnah (1940) argued in Lahore,

“Why our Hindu friends fail to understand the real nature of Islam and Hinduism. They are not religions in the strict sense of the word, but are, in fact, different and distinct social orders; and it is a dream that the Hindus and Muslims can ever evolve a common nationality; and this misconception of one Indian nation has gone far beyond the limits and is the cause of more of our troubles and will lead India to destruction if we fail to revise our notions in time”.

For Jinnah, these differences meant that the *“only course open to us all”* was *“to allow the major nations separate homelands by dividing India into autonomous national states”*. The Lahore Resolution formalized the Two Nations Theory as the political objective of the Muslim League: following the British departure, British India was to be divided into two separate Hindu and Muslim countries (Haqqani, 2016). It is key to note here that Jinnah conceptualized the need for this partition as the result of the inherent cultural differences between both groups, shaped by their respective religious affiliations.

One key component of Jinnah’s formulation of the Two Nations Theory was the numerical superiority of Hindus in British India. If India did remain unified, as proposed by Nehru, the numeral differences would allow Hindus to outvote Muslims in a unified and democratic system. Jinnah was transparent about the anxiety concerning Hindu majoritarianism: *“Hindus and Muslims brought together under a democratic system forced upon the minorities”*, he contended, *“can only mean Hindu Raj”*. Once again reflecting the religious dynamic that Jinnah observed to be at play in the Raj, Jinnah assumed that voting behaviour in a unified India would be heavily influenced by the religious affiliation of the electorate. The partition

framework laid out in the Lahore Resolution consequently sought to safeguard the social and political interests of the Muslim in an independent India.

While the Two Nations Theory strengthened the political clout of the Raj's Muslim population, it did not create a framework through which the practical and logistical problems that partition would create could be addressed. Of such issues there were plenty: on the one hand, British India was a highly heterogeneous place in religious, ethnic, and ultimately cultural terms. Different communities often lived alongside another. If partition did occur, how would these different identities be accommodated in a partitioned India? What would be the role of religious minorities? If communities had to move to reach their respective 'homeland', how would they be compensated for their loss of property and how would their safety be ensured? What would happen to areas such as Bengal and the Punjab, which were evenly split between Muslim and non-Muslim populations?

The Two Nations Theory is furthermore emblematic of a particular understanding of how individual and communal identity is constituted. Jinnah explicitly emphasized religious affiliation as a uniting (and dividing) factor in people's lives that was assumed to override any other components that provided a sense of communal belonging. The century-long mixing between religious groups in different ethnic communities made the question of ethnic ties especially relevant. A Punjabi Muslim, for instance, was more likely to share communal ties with Punjabi Hindus or Punjabi Sikhs than with Bengali Muslims given how closely related Punjabis were in non-religious terms. Similarly, the cultural practices of Bengali Muslims were likely to overlap with the practices of Bengali Hindus than with Sindhi Muslims. The Two Nations Theory, however, did not account for these alternative identity markers and assumed that religious affiliations would outweigh any other form of affiliation. By focusing on religion as the main signifier, the Lahore Resolution and the very notion of partition along religious lines failed to account for the multi-dimensional ways in which individual and communal identity was and is constituted.

The partition of the Raj in August 1947 ultimately followed the stipulations of the Two Nations Theory, splitting British India into the dominions of India and Pakistan. WWII had weakened Great Britain's holds over India, providing the independence movements with a key boost. The pro-independence efforts by the Congress Party and the Muslim League had accelerated from 1945 onwards and were increasingly accompanied by growing ethnic and religious tensions throughout British India, embodied by the 1946 religious riots in Calcutta (now Kolkata). Following the end of the war, Great Britain's then Prime Minister Clement Attlee appointed Lord Louis Mountbatten as Viceroy of India. Attlee wanted the decolonization of British India to be finalized by June 1948. Having arrived in India and having observed the growing communal tensions in the country, Mountbatten quickly came to favour partition as a means of preventing intercommunal tensions from boiling over (Krishnan, 1983). The growing tensions also created pressure on Nehru to substitute his unionist position with a pro-partition stance (Rizvi, 1995). In June 1947, Mountbatten gathered political leaders, including Jinnah and Nehru, to discuss the territorial boundaries that would demarcate the two new countries that would be borne out of British India. The new dominion of Pakistan was divided into a western part and an eastern part, with the eastern part being constituted

by the Muslim-majority area of East Bengal. Hindu-majority West Bengal became a part of India. The Radcliffe Line divided the Punjab into an eastern and western part and made the Punjab's Sikh population a part of the Indian Union. In line with the Two Nations Theory, the partition of the subcontinent had been set in motion.

The lack of logistical and practical preparations surrounding partition turned it into a humanitarian disaster. The announcement of partition suddenly meant that fourteen million people were on the move throughout the subcontinent to reach their alleged new homelands and leave the areas in which many of them had lived for centuries. The population transfer was left unassisted by the outgoing colonial administration and led to the escalation of ethnic tensions in large parts of India and Pakistan. The Punjab was especially severely affected: two million Hindus, Muslims, and Sikhs are believed to have been killed during partition, with innumerable girls and women being abducted and raped (Doshi & Mehdi, 2017). Following partition, the relative insecurity of the border between India and West Pakistan was further compounded by the outbreak of the conflict over Jammu and Kashmir. In contrast, the partition of Bengal took place relatively peacefully. The subcontinent was now divided into technically two but practically three countries, with East and West Pakistan sharing no direct physical connectivity.

The humanitarian disaster produced by the partition of British India has set much of the backdrop for the political conflicts that define South Asia until this day. Large-scale violence from all sides, especially in the Punjab, would sour not just the political relations between India and Pakistan but also the relations between Hindus, Muslims, and Sikhs. The conflict over Jammu and Kashmir created an additional strategic front in the conflict between India and Pakistan. This historical trajectory had also key implications for the governance of a divided Pakistan: prior to partition, Jinnah, who died in 1948, had hoped for the creation of a continental corridor cutting through Indian territory that would connect the two Pakistans. The post-partition relations between India and Pakistan, however, had made the implementation of such a design impossible (Schmid, 2011). In practice, Pakistan, framed by Jinnah as the sole homeland of subcontinental Muslims, had been split into two separate, physically disconnected political units.

Political and social relations between East and West Pakistan

Partition had not just created two separate countries for Hindus and Muslims but also divided the Muslim homeland of Pakistan into two separate entity units that were held together by the metaphorical glue of religion. As Akmam accurately observed in 2002,

“East and West Pakistan were separated from one another by more than 1,000 miles with distinct differences in language, cultural heritage, physical appearance and climate. Their only common feature [...] was their religion: more than 80% of both the populations were Muslim” (p. 545).

Pakistan's division into two parts created idiosyncratic problems for the country. How, for instance, would the civil administration of the country function given that communication

lines were heavily impaired? How would economic policy be structured considering that one central government had to oversee the governance of two separate political units? Crucially, how would the government mediate the cultural, ethnic, and differences of a highly heterogeneous country? It can be assumed that many of these governance issues would have existed regardless of how partition took place - cultural differences between Pashtuns and Bengalis, for instance, preceded partition. The absence of a corridor connecting East and West Pakistan had nevertheless compounded these governance issues further. The geographical, social, and political divide would come to define the relations between East and West Pakistan.

The governance approach towards East Bengal quickly came to replicate the British colonial approach towards the region. Under British rule, the port of Calcutta in West Bengal had been the largest strategic asset of the Raj in the Bay of Bengal (Dalrymple, 2019). East Bengal in contrast, also due to its lack of a natural port, had been viewed (and treated) by the colonial administration as little more than a backward slum (Schmid, 2011). During partition negotiations, Jinnah had replicated much of the British mindset towards Bengal as a whole, viewing Calcutta as the main strategic asset. When Calcutta went to India, East Bengal retained its ideological role (a Muslim-majority space that would become part of the Muslim homeland) but lost much of its strategic value (i.e., trading access to the Bay of Bengal). While underpinned by ideological and religious convictions, then, the partition negotiations were also shaped by broader strategic considerations.

As the sole province in the eastern wing of the country, East Bengal was integrated into Pakistan alongside four other provinces (Baluchistan, the North-West Frontier Province (now known as Khyber Pakhtunkhwa), Punjab, and Sindh) that were located in West Pakistan. Despite only being one province, East Bengal accounted for 55% of Pakistan's national population in 1947 (Akram, 2002). Prior to partition, Muslim Bengalis had hoped that a Muslim homeland would allow them to go beyond the marginal role to which they had been relegated under colonial rule (Christiansen, 2019). On paper, this opportunity was provided: the inhabitants of East Bengal could elect the East Bengal Provincial Assembly that would represent East Bengal in the Constituent Assembly, Pakistan's national parliament based in Karachi (now in Islamabad). The numerical superiority of East Bengal as one province over West Pakistan should therefore have provided East Bengal with significant political influence.

To contain this theoretical electoral influence of East Bengal, however, the Punjabi political and military elites in West Pakistan quickly began to implement centralizing legislations such as the 'One Unit' policy. Introduced by Prime Minister Muhammad Ali Bogra following the 1954 elections, the One Unit policy merged all four West Pakistani provinces into one single administrative unit. On the one hand, this boosted the relative influence of the Punjabi political and military elite relative to other ethnic groups in West Pakistan, causing political-ethnic relations in West Pakistan to deteriorate (Qaiser, 2015). At the same time, the consolidation of West Pakistan into one electoral unit created effective numerical parity with East Bengal, which practically contained the influence of East Bengal in the Constituent Assembly (Nisar, 2021; Ouassini & Ouassini, 2019). The One Unit policy marked a watershed moment in the ethnic intergroup relations of Pakistan: as Raja Qaiser (2015) notes, the policy "*marked the*

beginning of clear Punjabi dominance in the country's economic affairs and political influence at the center [...] Punjab's resulting military, bureaucratic, and economic roles in Pakistan contributed to the perception by other provinces of Punjab as an oppressor" (p. 110). Furthermore, the One Unit policy can be read as an attempt to develop a shared national identity as Pakistani as a major identity marker instead of separate ethnic identities as Bengali, Baloch, Sindhi and so on. In practice, the One Unit policy did not just suppress ethnic identities but also equated Pakistani-ness with cultural (and implicitly ethnic) Punjabi-ness. This Punjabi-focused nation-building enterprise was also reflected in the official renaming of East Bengal as East Pakistan in 1955, substituting a more specific Bengali identity with a more general, Punjabi-dominated Pakistani identity.

Additional centralization measures that curtailed the influence of Provincial Assemblies in the late 1950s further undermined the influence of East Pakistan in Pakistan's overall political system. The military regime of Ayub Khan, who had made himself President in a coup d'état in 1958, introduced additional centralization mechanisms that reduced autonomous political power in East Pakistan (Jaffrelot, 2015). Restructuring the relations between the provinces and the central government, Ayub personally appointed Regional Governors that could choose to dissolve Provincial Assemblies if the policy of the Provincial Assembly did not align with government policy. Any notion of federalism was therefore little more than a farce: in East Bengal, the Provincial Assembly suspended measures such as the provincial budget (ibid). The centralization policies of the late 1950s consequently built on the One Unit policy and sought to strengthen a shared Pakistani identity and State at the expense of ethnic identities and more regionalized forms of governance.

The growing exclusion of East Bengal in Pakistan's political system was expressed in economic structures that heavily favoured West Pakistan. By 1966, only 27,648 of a total of 114,032 civil servants in Pakistan were based in East Pakistan despite the majority of the population living in the eastern part of the country (Haqqani, 2016). The structuring of government subsidies resulted in consumer goods being cheaper in West Pakistan than in East Pakistan while public service investment was also more pronounced in the west (Akmam, 2002). Despite the country's demographic makeup, the Pakistani government furthermore concentrated development aid in West Pakistan, where the provided aid was twice as high as in East Pakistan (ibid). The subsequent lack of economic investment effectively stagnated the economy of East Bengal, where much of the Pakistani citizenry remained part of a peasant, rice-farming class (Gerlach, 2019). In both, political and economic terms, East Pakistan remained structurally disadvantaged relative to West Pakistan.

In West Pakistan, this divisive governance approach was legitimized based on a perception of Bengalis as culturally and racially inferior, a conception rooted in the racial categorizations developed under British colonial rule. Racial distinctions had played a key role in the Raj as the colonial administration frequently employed a divide-and-conquer approach in its takeover of the subcontinent, pitching different ethnic and religious groups against one another (Baker, 2015). One key concept in this context was the differentiation of groups into 'martial' and 'non-martial races'. Martial races were seen as being naturally endowed with bravery and fighting skills and subsequently played a key role in the armed forces of British

India (Rand & Wagner, 2012). As a result, specific groups such as Nepalese Gurkhas and Punjabi Sikhs were heavily overrepresented in British India's security apparatus. This would remain the case after partition, with the armed forces in Pakistan being dominated by Punjabis and Pashtuns (Abbas, 2006). Bengalis, in contrast, had been classed as non-martial after Bengali regiments had played a key role in the Indian rebellion of 1857 - classing Bengalis as non-martial consequently led to their exclusion from India's armed forces, creating and reinforcing a perception of Bengalis as weak and effeminate (Guruswamy, 2016). The differentiations established under British rule became deeply ingrained into the political culture of British India and the post-colonial identities of India and Pakistan. Ayub Khan, for instance, described Bengalis as a "*conquered peoples, while the inhabitants of West Pakistan were the descendants of conquerors*" (quoted in Ouassini & Ouassini, 2019, p.46). The racist classifications and understandings of Bengalis forged under British rule subsequently continued to play a key role in how Muslim Bengalis were seen in the Pakistani political system.

On top of these racialized imaginations of Bengalis as inferior, Muslim Bengalis were additionally viewed as being closely culturally linked with Indian Hindus. With Bengal historically being a multireligious space, the perceived historical influence of Hinduism in Bengal evoked suspicions in East Pakistan that Bengalis were more akin to Indian Hindus than to Muslim Pakistanis. Reflecting this fusion of perceived racial inferiority and alleged Hindu-ness, Ayub Khan (1967) wrote in his autobiography that

"East Bengalis [...] probably belong to the very original Indian races. It would be no exaggeration to say that up to the creation of Pakistan, they had not known any real freedom or sovereignty. They have been in turn ruled by the caste Hindus, Moghuls, Pathans [Pashtuns] or the British. In addition, they have been and still are under considerable Hindu cultural and linguistic influence. As such they have all the inhibitions of down-trodden races and have not yet found it possible to adjust psychologically to the requirements of the new-born freedom" (p. 184).

Khan's statement is emblematic of how the idea of Bengalis being racially inferior was infused with perceptions of Bengalis as quasi-Hindus. Epitomizing the ideas of the Two Nations Theory, Bengalis were consequently seen as not just ethnically but also culturally other. The exclusion of East Pakistan in Pakistan's political system can thus be said to have rested on three main pillars. Firstly, the physical disconnect between east and west made it difficult to create a cohesive governance model that sufficiently accounted for the structural discrepancies between both parts. Here, the historical concentration of political and military power in West Pakistan allowed West Pakistan to contain the political agency of East Pakistan, creating a system that heavily advantaged the western part. Secondly, racialized imaginations of Bengalis as inferior remained dominant in West Pakistan's political culture. This conception purportedly rendered Bengalis unfit for self-governance, in turn vindicating the intrusive political role of West Pakistan. The existence and prevalence of this mindset exhibits the continued socio-normative influence of colonial cognitive frameworks rooted in British colonialism. Thirdly, the racialized image of Bengalis was further shaped by perceptions of

Muslim Bengalis as quasi-Hindus and the anti-Indian sentiment that had become deeply embedded into the political identity of West Pakistan.

The social marginalization of Bengali identity in Pakistan can be explained when these cultural imaginations of Bengalis are considered. Following partition, West Pakistan had shown little interest in alleviating the food shortage that East Bengal had encountered in 1947 (Christiansen, 2019). Bengali Muslims further also felt insulted by the 1952 announcement that Urdu, not Bengali or Bengali and Urdu, would serve as Pakistan's official language (Schmid, 2011). The exclusion of Bengali from Pakistan's official political framework led to widespread demonstrations in East Pakistan (now Bangladesh) and the killing of several students by Pakistani security forces (Christiansen, 2019). In East Bengal, the opposition to Urdu and the One Unit policy led to growing popular support for the nationalist Awami League, which had been founded in 1949 and opposed the erosion of Bengali identity (Gerlach, 2019; Lieven, 2011). Bengali opposition to West Pakistan, primarily facilitated through the Awami League, was the outcome of a non-inclusive nation-building exercise that favoured West Pakistani political and economic interests at the expense of Bengali identity markers. In practice, the Two Nations Theory's failure to account for identity components other than religion had created increased discontent with the social, economic, and cultural ramifications of a united Pakistan.

Relations between East and West Pakistan deteriorated further throughout the course of the 1960s, incentivizing growing popular support for the Awami League and their increasingly secessionist political positions. In 1965, India and Pakistan fought their second war over Jammu and Kashmir, leaving East Pakistan effectively undefended. This manifestation of political priorities led to the further alienation of the local population (Schmid, 2011). In June 1966, Sheikh Mujib Rahman, the founder and President of the Awami League, consequently formulated six main political demands that sought to amend the Pakistani constitution:

- *“The constitution shall provide for a federation of Pakistan in its true sense on the Lahore Resolution, and the parliamentary form of government with supremacy of a legislature directly elected on the basis of universal adult franchise.*
- *The federal government shall deal with only two subjects: Defence and Foreign Affairs, and all other residuary subjects shall be vested in the federating states.*
- *Two separate, but freely convertible currencies for two wings should be introduced; or if this is not feasible, there should be one currency for the whole country, but effective constitutional provisions should be introduced to stop the flight of capital from East to West Pakistan. Furthermore, a separate reserve bank should be established, and a separate fiscal and monetary policy be adopted for East Pakistan.*
- *The power of taxation and revenue collection shall be vested in the federating units and the federal centre will have no such power on the issue. The federation will be entitled to a share in state taxes to meet its expenditures.*
- *There should be two separate accounts for the foreign exchange earnings of the two wings; the foreign exchange requirements of the federal government shall be met by*

the two wings equally or in a ratio to be fixed; indigenous products shall move free of duty between the two wings, and the constitution shall empower the units to establish trade links with foreign countries.

- *East Pakistan shall have a separate militia or paramilitary force” (Shawon, 2020).*

Unsurprisingly, the so-called six demands were not favourably received by the Ayub Khan government in West Pakistan. If Mujib’s demands were indeed implemented, the federalization of Pakistan, the creation of two separate foreign reserve accounts, and the formation of a separate military force for East Pakistan would have practically rendered East Pakistan independent. Indeed, West Pakistani policymakers saw the six demands as nothing short of a demand for secession (Ouassini & Ouassini, 2019). The six demands shifted the relations between East and West Pakistan to increasingly hostile and gave rise to the Agartala Conspiracy, in which Mujib and other Awami League members were convicted of conspiring with India to create an independent country for Bengalis (Siddiq, 2007). In West Pakistan, the perception of Mujib and the Awami League as secessionists that were aided by India reinforced the perceived links between Bengalis as not properly Pakistani and culturally linked to India (Haqqani, 2016). The left-wing orientation the Awami League shared with the Congress Party further entrenched this perception. Because of this cognitive linking, Mujib’s six demands did not just stoke anti-Bengali sentiments in West Pakistan but also strengthened the perceived connection between Bengali secessionism and Pakistan’s conflict with India.

As popular support for the Awami League surged throughout the 1960s, relations between East and West Pakistan began to deteriorate further. Mujib doubled down on his secessionist rhetoric in the aftermath of the Agartala Conspiracy, suggesting that East Pakistan should now be known as Bangladesh, a clear reference to the Bangla language and the Bengali ethnicity as identity markers. Through his reference to Bangladesh as the country’s name, Mujib positioned himself in direct opposition to the Two Nations Theory: if Bangladesh was to attain independence, Pakistan would no longer be the sole homeland of the subcontinent’s Muslim population. While Mujib’s secessionist messaging undermined the position of the government in West Pakistan, Ayub Khan also faced growing public discontent in West Pakistan and was replaced in 1969 by Yahya Khan. To alleviate the extent of public discontent in both parts of the country, the new President revoked the One Unit policy and promised that national elections would be held in 1971. The prospect of elections, in combination with the revocation of the One Unit policy eliminating numerical parity between East and West Pakistan, had finally enabled East Pakistanis to make their numerical superiority count.

The 1971 elections culminated in a resounding electoral success of the Awami League, the West Pakistani response to which set the stage for the 1971 war. The standing of the central government in East Pakistan had been undermined further by the government’s sluggish response to the Bhola cyclone that had hit East Pakistan in November 1970, killing up to 500,000 people (Christiansen, 2019). In the 1971 elections, the Awami League registered a resounding victory in the East Pakistan Provincial Assembly over the pro-Pakistan Jamaat-e-Islami. The ramifications were immense: besides ensuring Awami League dominance in the Provincial Assembly, the electoral margin of Mujib’s success also meant that the Awami League had secured 160 out of 300 seats in the Constituent Assembly (Ouassini & Ouassini,

2019). The results came as a shock to Yahya Khan and Zulfikar Ali Bhutto, who had run for the Pakistan People's Party (PPP) in West Pakistan, and Khan and Bhutto simply refused to reconvene the Constituent Assembly. In subsequent negotiations with Yahya and Bhutto in Dhaka in early March 1971, Mujib refused to relax his stance on his six demands, leading the negotiations to come to a standstill. The victory of the Awami League and Mujib's unwillingness to buckle on his demands had brought Pakistan's political future into question.

Khan's and Bhutto's refusal to reconvene the Constituent Assembly following the victory of the Awami League highlights the structural fragility that plagued Pakistani democracy even in its early years. For many politicians in West Pakistan, democracy was seen as useful if it guaranteed the survival of prevalent political structures that heavily favoured the (Punjabi) elite in West Pakistan. Democracy was not viewed as a comparatively ideal form of governance but as a means to ensure elite domination. One could argue that this fundamental disconnect between a truly functional democracy and the politico-economic interests of the political elite in Pakistan's political system has not been resolved until this day (Ahmed, 2017; Kukreja, 2020). In calling for elections, Yahya had sought to maintain the unity of Pakistan as one country in accordance with the Two Nations Theory. When this failed to produce the desired outcome, Islamabad simply refused to recognize the electoral outcome. Crucially, this decision reflected and was enabled by the racist preconceptions associated with Bengalis: Siddiq (2007) quotes a Pakistani Army officer contending after the publication of election results: *"Don't worry [...] we will not allow these black bastards to rule over us"* (p. 90). For the elite in West Pakistan, being governed by supposedly inferior people was simply not an option, highlighting how deeply the sense of Bengali inferiority was ingrained in the political culture of early Pakistan.

The West Pakistani refusal to recognize the outcomes of the elections hardened the demands for Bengali independence and resulted in widespread violence against pro-Pakistani Bengalis in East Pakistan and Urdu-speaking Biharis who had migrated to East Pakistan in the wake of partition. The refusal to acknowledge the democratic victory of the Awami League was the last straw for many in East Pakistan who had grown tired of a sense of alienation, marginalization, and oppression. East Pakistan was ripe for secession.

Operation Searchlight and the war of liberation

West Pakistan's response to what appeared as the impending breakup of the country was a military intervention launched under the codename Operation Searchlight on 26 March 1971, marking the start of the Bangladesh war of liberation. Operation Searchlight was executed by the Punjabi-dominated troops stationed in East Pakistan and sought to eliminate the forces deemed responsible for East Pakistan's secessionist tendencies: the Awami League, the Bengali intelligentsia, and Bengali Hindus (Ouassini & Ouassini, 2019). Prior to Operation Searchlight, Pakistani intelligence services had compiled lists of Awami League members and alleged sympathizers that were eliminated once Pakistani troops moved on Dhaka (Christiansen, 2019). The deliberate targeting of Awami League members, the Bengali intelligentsia, and Bengali Hindus highlighted that Operation Searchlight was not a military

operation against a military opponent but aimed to suppress and eradicate the political class seen as responsible for demanding the secession of East Pakistan.

The pervasive violence of the Pakistan Army and the Razakars was recorded by Archer Kent Blood, who served as the United States General Consul in Dhaka at the time. During Operation Searchlight, the Pakistani Army and the Razakars showed remarkably little interest in hiding the violence they inflicted on the civilian population of Dhaka and the surrounding areas. Blood became the infamous author of the so-called Blood Telegram, which Blood (1971a) sent to his superior, US Secretary of State Henry Kissinger, in late March 1971:

“Here in Dacca [sic] we are mute and horrified witnesses to a reign of terror by the Pak military. Evidence continues to mount that [...] authorities have [a] list of Awami League supporters whom they are systematically eliminating by seeking them out in their homes and shooting them down [...] With support of the Pak military, non-Bengali Muslims are systematically attacking poor people’s quarters and murdering Bengalis and Hindus. [The] Streets of Dacca [sic] are aflood with Hindus and others seeking to get out of Dacca [sic] [...] We [the American government] should be expressing our shock, at least privately, to [the] GOP [Government of Pakistan] at this wave of terror directed against their own countrymen”.

Upon reception of the telegram, the US State Department of the Nixon administration did not move to condemn the Pakistani behaviour - for Washington, Pakistan still was a key ally in the conflict with the Soviet Union. Given the US’ inaction, Blood (1971), who described the Pakistani conduct as ‘selective genocide’, sent another heavily worded telegram, signed by several of his colleagues, on 6th of April 1971:

“Our government has failed to denounce the suppression of democracy. Our government has failed to denounce atrocities. Our government has failed to take forceful measures to protect its citizens while at the same time bending over backwards to placate the West Pak dominated government and to lessen likely and deservedly negative international public relations impact against them. Our government has evidenced what many will consider moral bankruptcy”.

The inaction on behalf of the US exemplifies how the geopolitical dynamics of the Cold War shaped the international response (or, rather, the lack thereof) to the atrocities in East Pakistan. Tacitly enabled by the United States’ silence, the Pakistan Army and the Razakars were given a carte blanche to massacre the population of East Pakistan. This violence led to the retributive violence by the Mukti Bahini (‘Freedom Fighters’), a pro-independence insurgency group that fought a guerrilla war against the Pakistani Army and the Razakars. Still regarded as national heroes in Bangladesh until this day (Ahsan, 2020; Subramaniam, 2021), ample research also suggests that the Mukti Bahini themselves engaged in mass atrocities against allegedly Razakar-affiliated Bengalis and Urdu-speaking Biharis both during and after the war (Bose, 2011a; Saikia, 2004). As the Mukti Bahini ramped up their anti-Pakistani activities, the Army and the Razakars began to terrorize the East Pakistani countryside. The war was now in full swing.

Operation Searchlight marked the start of the war that would ultimately result in the independence of Bangladesh from Pakistan. The conflict resulted in the mass displacement and migration from East Pakistan to India, with up to ten million people fleeing to India according to the United Nations High Commissioner for Refugees (2000). In East Pakistan, the Army and the Razakars systematically killed anyone supposedly affiliated with or supporting the Awami League (Ouassini & Ouassini, 2019). Indeed, it has been alleged that mass killings emerged as a major component of Pakistan's military strategy: Yahya Khan is frequently quoted to have said *"kill three million [Bengalis]... and the rest will eat of our hand"* (Ouassini & Ouassini, 2019, p. 46).

The fight against Bengali secessionism had quickly escalated into mass killings.

Pakistan ultimately failed to maintain the unity of a country divided in more ways than one. In support of the Mukti Bahini, India launched a military offensive against the Pakistani troops in East Pakistan, resulting in the capitulation and capture of more than 90,000 Pakistani soldiers in December 1971. Mass violence against Bengali civilians had been a key phenomenon in the war – the extent to which this was the case, however, has been disputed by the Pakistani government.

Pakistan's (official) reckoning: The Hamoodur Rehman Commission report

Bangladeshi independence translated into a humiliating defeat for Pakistan in both ideological and practical terms. Perhaps most importantly, military defeat had meant that the Two Nations Theory had failed as Pakistan was no longer the sole homeland of subcontinental Muslims. Furthermore, Pakistan had suffered a clear military defeat at the hands of none other than India. Regarding practical implications, Pakistan lost both tax revenues and other forms of income as it could no longer tax and exploit East Pakistan. These monumental ideological and structural shifts shook Pakistan and led to the resignation of Yahya Khan, who was succeeded by Zulfikar Ali Bhutto. For Pakistan, the main questions raised by Bangladeshi independence were the following: how could this have happened and who is ultimately responsible for it happening?

To answer these questions, the Bhutto government created an inquiry commission led by the Chief Justice of the Pakistan Supreme Court, Hamoodur Rehman, in late December 1971. The Hamoodur Rehman Commission (HRC) further included Anwarul Haq, Chief Justice of the Lahore High Court, and Tufail Abdur Rahman, Chief Justice of the High Court of Sindh and Balochistan, and was tasked with

"Inquiring into the circumstances in which the commander, Eastern command [Lieutenant General A. A. K. Niazi], surrendered and the members of the armed forces of Pakistan under his command laid down their arms and a ceasefire was ordered along the borders of West Pakistan and India and along the ceasefire line in the State of Jammu and Kashmir" (Hamoodur Rehman Commission, 2001, p. 11).

Between 1972 and 1974, the HRC extensively interviewed members of the Pakistani military and government. The report was finalized in 1974 and passed on to Bhutto - instead of

publishing and discussing the report's findings externally, however, Bhutto chose to classify the report (Dasgupta, 2000). Following Bhutto's hanging by the military government of Zia ul-Haq in 1979, the Zia regime chose to also not publish the report (Aziz, 2015). It took until August 2000, when the report was simultaneously leaked by the Pakistani newspaper *Dawn* and the Indian newspaper *India Today*, for the work of the HRC to see the light of day. In 2001, the report was published by the publishing house Vanguard in Pakistan. Even then, President Pervez Musharraf was reluctant to discuss the HRC's findings: *"What happened in '71 was a disgrace to the nation. Should we remember such disgraces? [...] Why the hue and the cry now when most of the people [mentioned in the report] are not alive?"* (quoted in Cilano, 2011, p. 4). The declassification of the HRC report can subsequently be seen as the result of political pressure to publish the report rather than a willingness to create political accountability for the events of 1971. Inevitably, this brings up the question as to why several governments chose to not publish the report.

The report of the HRC concedes that the Pakistani Army engaged in the widespread pillaging of the East Pakistani countryside, allegedly due to a lack of strategic planning. Following the launch of Operation Searchlight, the report (2000) suggests, *"the civil administration practically came to a standstill, and the burden of running the province [East Pakistan] fell heavily upon the army officers"* (pp. 501-502). The lack of a functioning civilian government overseeing military operations is said to have resulted in the Pakistani Army entering the East Pakistani countryside *"without adequate logistic arrangements"*, leading the Army to *"take its requirements of food-grains and other essential supplies from civilian sources"* (p. 503). Niazi portrays this as a lack of strategic planning by the central government:

"There was no overall political objectives or national policy or national strategy to deal with the insurgency [post Operation Searchlight] in East Pakistan. The high command failed to reap the fruits of our early military successes in East Pakistan. On the contrary, the enemy made full use of this period and prepared herself to undo the order restored by the military action by organizing a war of rebellion and follow it up with coup de grace "to liberate Bangladesh"" (quoted in HRC, 2001, p. 373).

The report further acknowledges that the pillaging of the East Pakistani countryside, which would have inevitably resulted in mass displacement, prevailed *"even when it became possible to make proper logistic arrangements"* (ibid). The report is certainly critical of the armed forces: a lack of legal accountability *"led to a general feeling among the troops, including their officers, that they were entitled to take whatever they wanted from wherever they liked"* (ibid). The lack of military success leading to the ultimate secession of Bangladesh, was the result of poor coordination between political planning and military strategy, which seemingly had to be largely improvised on the ground. Regarding Niazi's statement, it must of course also be noted that Niazi had an interest in deflecting responsibility for military shortcomings due to his position as head of the Eastern Command.

Overall, the report blames much of the Pakistani defeat on the personal and professional conduct of Niazi, which is described as having instilled a disorderly atmosphere in the ranks. Niazi is accused of having

“Acquired a notorious reputation for sexual immorality and indulgence in the smuggling of opium from East to West Pakistan, with the inevitable consequence that he failed to inspire respect and confidence in the mind of his subordinates, impaired his qualities of leadership and determination, and also encouraged laxity in discipline and moral standards among the commanders under his command” (HRC, 2001, p. 520).

Niazi, a veteran of the Burma campaigns of the British Indian Army during WWII, is also alleged to have directly instructed his troops to plunder the countryside. *“What have I been hearing about shortage of rations?”, he [Niazi] inquired. “Are there not any cows and goats in this country? This is enemy territory? Get what you want. This is what we used to do in Burma”* (p. 503). Firstly, Niazi here encouraged West Pakistani soldiers to make use of the countryside as a resource base, inevitably at the expense of the civilian population in these areas. Secondly, this behaviour was legitimized through the description of East Pakistan not as Pakistani but ‘enemy’ territory. Niazi, the report’s narrative generally goes, was therefore personally responsible not just for military failure (and, thus, the breakup of Pakistan), but also the deterioration in the moral rigidity of his troops. Here again, it must be noted that the individuals interviewed by the HRC had an interest in shedding any kind of personal responsibility and placing responsibility on figures such as Niazi. That said, Niazi’s statement indicates how East Pakistanis were not viewed as Pakistani citizens that required and deserved protection but as enemies that had to be combated, rendering their land fit for exploitation and them fit for elimination. It is furthermore worth noting that Niazi did not refer to a military opponent but to a civilian population - whether the people killed in military actions were combatants and civilians appears to have made little difference to him. It can thus be said that a lack of strategic planning as well as the conduct of certain parts of the military structure seemed to have created a strategic environment in which pervasive anti-civilian violence was enabled.

Indeed, the HRC report partially reads as an admission of the Pakistani Army engaging in mass atrocities, including the mass use of rape. Here again, Niazi deflected responsibility on Lieutenant General Tikka Khan, who had been head of the Eastern Command during the early stages of Operation Searchlight. Under Tikka Khan, Niazi alleged,

“Military action was based on use of force primarily and at many places indiscriminate use of force was resorted to, which alienated the public against the army. Damage done during those early days of the military action could never be repaired, and earned for the military leaders names such as, “Changez Khan” [sic] and “Butcher of East Pakistan”” (quoted in HRC, 2001, p. 509).

Niazi also denied that rapes systematically occurred while he oversaw the Eastern Command. Rather, he described the occurrence of rape in war in fatalistic terms: *“these things [rapes] do happen when troops are spread over”* (p. 509). Niazi here implies that rapes in war ‘simply’ happen. Components of the report, however, dispute this: Rao Farman Ali, who served as Advisor to the Governor of East Pakistan, recounted *“harrowing tales of rape, loot, arson harassment and of insulting and degrading behaviour against the civilian population”* (HRC, 2001, p. 509). While Ali also notes that violent escapades were not part of military policy but were organized by lower ranking officials on the ground, it is evident that rapes did not just

randomly occur but were more frequent than what Ali and other soldiers would have considered 'normal'.

Indeed, Niazi's underlying implication that rapes in war simply happen is heavily disputed in contemporary scholarship on the relation between warfare and sexual violence. As observed by Porter (2019), war rapes often do not happen randomly but can be part of larger strategic frameworks. In this context, rape can serve as a strategy to achieve distinct wartime objectives:

"[R]ape serves as a strategy to intimidate, degrade, humiliate, punish, and torture, aimed as a retribution to undermine and emasculate the enemy. In some cases, rape is a prelude to death. In other cases, rape may be a tactic of secessionist groups intended to signify the end of inter-group relationships, or it may be part of a larger campaign of ethnic cleansing or annihilation, aimed to deactivate communities and force civilians to abandon territory, in order to assert ethnic and political dominance. In most cases, rape often involves compulsory performances of the perpetrator as well as the victim who must enact public rituals of degradation before significant others" (Doja, 2019, pp. 546-547).

Furthermore, wartime rapes do not occur dissociated from their broader social context: rape *"derives from a system of dominance and subjugation that allows, and in fact often encourages, precisely as a way of maintaining that social system"* (Allen, 1996, p. 39). As such, the social factors that rendered Bengali women 'fit' for rape were likely to be based on social imaginations that preceded the conflict (Buss, 2009). Niazi's suggestion that rapes did not occur systematically may thus be true insofar as it cannot be proven that they were directly instructed by Niazi - this, however, does not mean that they did not occur on a large scale or were not systematically organized and tacitly approved.

Some external sources have indeed suggested that rapes constituted a key part of the military strategy of the Pakistani Army on the ground. In an interview with the Australian-Bangladeshi academic Bina D'Costa (2010), Geoffrey Davis, an Australian doctor who worked in Bangladesh during and after the war, recounts how Pakistani troops and Razakars would organize their military operations in East Pakistani towns:

"They'd [the Pakistani Army and Razakars] keep the infantry back and put artillery ahead and they would shell the hospitals and schools. And that caused absolute chaos in the town. And then the infantry would go in and begin to segregate the women. Apart from little children, all those who were sexually matured would be segregated while the rest of the infantry tied... the rest of the town, which would involve shooting everybody who was involved with the East Pakistani government or the Awami League. And then the women would be put in the compound under guard and made available to the troops".

Davis later adds that the women were,

"[b]eing raped again and again and again. By large Pathan [Pashtun] soldiers. All the rich and pretty ones were kept for the officers and the rest were distributed among the

other ranks. And the women had it really rough. They didn't get enough to eat. When they got sick, they received no treatment. Lot of them died in those [rape] camps" (ibid).

Davis' account defies the idea that rapes occurred due to a lack of administrative oversight or units being "spread over", as suggested by Niazi. The observations made by Davis furthermore imply that rapes were systematically organized to some extent. This is echoed in the findings of Sherlach, who outlines how,

"Survivors reported that a high-ranking Pakistani officer alluded to the mass rape of women as a means of subjugating the enemy women. In allusion to the Bengal tigers, he referred to the rape of Bengali women as "taming the tigresses". Additionally, [...] the West Pakistani officers showed pornographic films in the barracks in East Pakistan to encourage their weary soldiers to rape" (p. 111).

Regardless of whether one accepts the number provided by the Bangladesh government after the war, rape clearly was a pervasive component of the practical conduct of the Army. What is less certain is that this was a component of military strategy. That said, the accounts by eyewitnesses, survivors as well as Pakistani officials such as Ali indicate that rapes did not occur as randomly as implied by Niazi during the interviews.

The HRC report furthermore includes admissions that the targeted mass killings of civilians occurred on a larger scale. Lieutenant Colonel Mansoorul Haq recounted that the killings of Bengali civilians were indiscriminate and did not follow any notion of due process: *"A Bengali who was alleged to be a Mukti Bahini or Awami Leaguer, was being sent to Bangladesh, code name for death without trial, without any detailed investigation and without any written order by any authorised authority"* (quoted in HRC, 2001, p. 510). On one occasion that Haq described, the *"flick of one officer's finger"* sufficed as a death sentence for 17 Bengali officers and 915 civilians (ibid). The HRC thus confirms that mass killings did occur, were frequently if not always indiscriminate, and often occurred at the discretion of officials on the ground. Crucially, Haq identified a rampant ethnonationalism and anti-Hinduism prevalent in the Pakistani Army as motivating this form of systematic violence:

"There was a general feeling of hatred against Bengalis amongst the soldiers and the officers including generals. There were verbal instructions to eliminate Hindus. In Salda Nadi area [a district east of Dhaka] about 500 people were killed. When the army moved to rural areas and small towns, it moved in a ruthless manner, destroying, burning and killing" (ibid).

Haq's account once again affirms that violence against civilian populations was systematically organized without necessarily being ordered from above.

Although the HRC report recognizes the mass violence by the Pakistan Army, it also seeks to partially justify this violence as an essentially retributive military action. The report alleges that much of the perception of West Pakistani troops prior to Operation Searchlight had been shaped by the atrocities reported by Biharis and pro-Pakistani Bengalis that had fled East Pakistan prior to Operation Searchlight. These East Pakistanis, the HRC contends, had told

stories of “large scale massacres and rape against the pro-Pakistan elements” (HRC, 2001, p. 507). While the HRC furthermore claims to not seek to justify the atrocities committed by the Pakistani Army, the report does state that the activities must be...

“Judged in their right perspective. The crimes committed by the Awami League miscreants were bound to arouse anger and bitterness in the minds of the troops [...] They had seen their comrades insulted, deprived of food and rations, and even killed without rhyme or reason. Tales of whole slaughter of the families of West Pakistani officers and personnel of several units had also reached the soldiers” (HRC, 2001, p. 508).

Here, anti-Bengali violence is explained and legitimized as an essentially retributive act: Pakistani soldiers learn of reports of violence by Bengalis and consequently murder Bengalis in return. The HRC suggests that this retributive element intensified over the course of the war. Following Operation Searchlight, it is argued,

“Indian infiltrators and members of the Mukti Bahini sponsored by the Awami League continued to indulge in killings, rape and arson during their raids on peaceful villages in East Pakistan, not only in order to cause panic and disruption and carry out their plans of subversion, but also to punish those East Pakistanis who were not willing to go along with them [...] the atrocities committed by them [members of the Awami League] on their own brothers and sisters must [...] always be kept in view” (p. 513).

It must be said here that anti-Bihari and anti-Pakistani violence had escalated throughout March 1971 and has indeed been well-recorded (Bose, 2011; Bose, 2011a). This, of course, does not justify any violence by the Pakistan Army and the Razakars. That said, the violence that was reported presumably changed the dynamics of the conflict and interacted with the deep-seated ethnonationalist perspective through which the conflict was conceptualized in West Pakistan.

The HRC furthermore takes a stance on the number of victims alleged by the Dhaka government. The numbers proposed by Dhaka, the HRC (2001) contends,

“Are obviously highly exaggerated. So much damage could not have been caused by the entire strength of the Pakistan Army then stationed in East Pakistan, even if it had nothing else to do [...] the army in East Pakistan was constantly engaged in fighting the Mukti Bahini, the Indian infiltrators, and later the Indian army. It has also the task of running the civil administration, maintaining communications, and feeding 70 million people of East Pakistan. It is, therefore, clear that the figures mentioned by the Dacca [sic] government are altogether fantastic and fanciful” (p. 513).

Instead of accepting the numbers proposed by the Dhaka government, the HRC puts forward the number of 26,000 people killed by the Pakistani Army, based on the numbers provided by the General Headquarters (GHQ). It is furthermore argued that even these numbers may be exaggerated. The report also contends that the number of 200,000 girls/women being raped cannot be correct as the British abortion team commissioned by Mujib had only aborted

around 100 pregnancies after the war (ibid). The scale of the violence, then, is heavily contested by the HRC despite the admission that mass violence had taken place.

When it comes to discussing the number of victims, it is key to note that both Pakistan and Bangladesh have an interest in suggesting numbers that legitimize their respective political positions. The body count suggested by the HRC seems to be excessively low, especially when it is considered that the source of these numbers is the Pakistani GHQ. The GHQ has an evident institutional interest in publishing a low count given that high numbers would further incriminate the armed forces. Suggesting that the low number of abortions indicates a low number of rapes is also non-sensical as women may be too far along in their pregnancy to have an abortion, may have already had their child or may opt not to get an abortion due to the social stigma attached to being a rape survivor. Here again, keeping numbers to a minimum serves the institutional interest of maintaining public and international perceptions. That said, the HRC makes a valid point when arguing that the Bangladeshi numbers are excessively high. The 93,000 Pakistani soldiers that were captured by the Indian Army in December 1971 would have needed to kill and rape Bengali civilians consistently and systemically over six months while engaging in counterinsurgency operations. The Bangladeshi side here also has an institutional interest in upping the numbers to further legitimize the Bengali nation-building project and potentially also justify any atrocities committed against pro-Pakistan elements. The 'true' numbers, so to speak, are probably somewhere in the middle.

The final section of the HRC report deals with who is responsible for Pakistan's military defeat in East Pakistan, most of which the report blames on Niazi. The final and structural responsibility, according to the report, lies with Yahya Khan, Lieutenant General Pirzada, Major General Umar, Lieutenant General Hul Hassan and Major General Mitha (HRC, 2001, p. 513). However, the report also reads that there was *"nothing to show that they [the aforementioned individuals] contemplated the use of excessive force, or the commission of atrocities and excesses on the people of East Pakistan"* (p. 514). Immediate responsibility is said to lay with Tikka Khan and, following Niazi's takeover of the Eastern Command, Niazi.

Niazi is heavily criticized for his role in motivating the atrocities committed by the Pakistan Army: *"there is some evidence to suggest that the words and personal actions of Lt-Gen Niazi were calculated to encourage the killings and rape etc."* (p. 514). The HRC also repudiates Niazi's claim that the Army was operating on enemy territory, contending that the *"Army was called upon to operate on Pakistan territory, and could not, therefore be permitted to behave as it was dealing with external aggression, or operating on enemy soil"* (ibid). Perhaps conveniently, the HRC identified Niazi as not just the main culprit for the military failure in the war but also for the atrocities that the Pakistani forces committed during the war. After having spent four years as a POW in India, Niazi subsequently had to leave the Army after returning to Pakistan in 1975. It is certainly noteworthy here that the HRC found a political scapegoat that lacked the political clout to significantly challenge the verdict.

In sum, the HRC can be read as both an admission of Pakistani guilt as well as being reflective of a distinct Pakistani perspective. The report is extremely critical in some regards, dealing openly with the atrocities committed by the Army, naming and shaming Army officials that

showed poor military conduct, and showcasing some awareness of how the ethnonationalism of the West Pakistani troops shaped the conduct of the armed forces. The critical nature of this report should be recognized and helps to explain why Pakistani governments sought to contain the report until they simply could not do so anymore. The report is simultaneously engaged in justifying the violence perpetrated by the Pakistani troops. Atrocities are described as retributive and precluded by Bengali violence against pro-Pakistan factions. Moreover, Niazi is identified as the central character whose presumably incompetent behaviour resulted in the breakup of the country. Unsurprisingly, the HRC report must thus not be read as an objective examination of the events that took place in 1971 but as a politically biased account that served specific political interests in West Pakistan.

The 1971 war: a case of genocide?

The events of 1971 have frequently been described as constituting a genocide. In his telegram, Archer Kent Blood described the activities of the Pakistani Army and the Razakars as a 'selective genocide'. This conceptualization of the atrocities of 1971 has prevailed in contemporary analyses of the conflict (Beachler, 2011; Boissoneault, 2016; Saunders, 2014). In Bangladesh, the alleged pervasiveness of sexual violence in the conflict has also evoked claims that Pakistan sought to eradicate Bengali culture through the impregnation of Bengali women (Chaudhury, 2021), which could be interpreted as another attempt to modify (and eradicate) the ethnic-communal identity of (Muslim) Bengalis. The following sections first examine the concept of genocide and genocidal rape before discussing whether the events of 1971 can be legally described as a genocide in the existing legal-international context.

Conceptualizing genocide

The concept of genocide is a fundamental cornerstone of the international legal framework created in the aftermath of WWII. Although mass killings are hardly a phenomenon that are idiosyncratic to the 20th century, the horrors of WWII in both Europe and Asia created a new focus on mass killings that aimed to eradicate a specific group. The term genocide, consisting of the Greek term *genos* (meaning tribe, race, or family) and *-cide* (meaning killing), was coined by the Polish and Jewish lawyer Raphael Lemkin in either 1943 or 1944. During the interwar period, Lemkin had extensively studied the events of what is now known as the Armenian genocide (Balakian, 2013). In the holocaust, Lemkin lost 49 of his relatives during the extermination campaign pursued by Nazi Germany in Poland and larger Eastern Europe. Both his academic interest as well as his personal experience resulted in Lemkin becoming a key figure in the formulation of international law after the war. Lemkin's key contribution to international law was the creation of the 1948 United Nations (UN) Convention on the Prevention and Punishment of the Crime of Genocide. The 1948 convention defines genocide as "*any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:*

- *Killing members of the group;*

- *Causing serious bodily or mental harm to members of the group;*
- *Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;*
- *Imposing measures intended to prevent births within the group;*
- *Forcibly transferring children of the group to another group”.*

The UN Genocide Convention’s definition of genocide can be said to consist of three main parts. Firstly, the Convention stipulates that the political prosecution of the targeted group is constructed around its national, ethnic/racial, or religious belonging. Secondly, the party (or parties) committing a genocide seek to ‘destroy’ the targeted group in one way or another. Thirdly, and this is crucial, genocidal behaviour is driven by the *intent* of the perpetrator to destroy the targeted community. This understanding of genocide is outdated as it is heavily situated in the political and social context of the post-WWII years as the events of the holocaust had come to define the way in which mass killings were experienced and conceptualized. As such, the UN Convention reflects a distinct understanding of genocide in relation to specific historical and political events and processes.

This situatedness of the UN Convention in a specific historical context has resulted in it being criticized for insufficiently accounting for other processes connected to mass violence. One main conceptual issue is the problem of operationalizing genocide as a means of differentiating genocide from other forms of mass violence (Sherlach, 2000). It is unclear, for instance, how many people must die for mass killings to become genocide (BBC, n.d.). As discussed, the Genocide Convention also puts an emphasis on the intent to commit genocide - for mass killings to become a genocide, it is implied, they cannot simply ‘happen’ but must constitute part of a larger strategic framework that seeks to destroy the targeted community. Once again, this reflects a specific temporal understanding of how a genocide is organized: Nazi Germany, for instance, directly instructed its soldiers in Eastern Europe and the USSR to exterminate significant parts of the local population, the members of which were portrayed as sub-human (Krausnick, 2016). Here, the intent to commit genocide is evident as it became an outright part of Nazi Germany’s military strategy. In other instances, this notion of intent is much harder to prove, for instance when there are no (written) explicit instructions to military personnel to kill members of a particular group. Moreover, the Convention treats the actors perpetrating a genocide as homogenous actors, which does not account for the fact that different military and paramilitary units may choose to engage/not engage in genocidal behaviour on the ground, regardless of whether this engagement/non-engagement is part of the overall military strategy. Genocide and the perpetrators thereof are thus treated in a largely monolithic way that may struggle to account for divergent forms of behaviour.

Additionally, the UN’s definition of genocide does not explicitly examine how genocide relates to questions of gender and sexual violence. The convention focuses on prosecution along national/ethnic/racial/religious lines, excluding gender as a category. Yet, rape, which *“happens wherever fear and insecurity are joined with power and immunity from prosecution”* (Allen, 1996, p. 39) is particularly present in wars as the offenders’ immunity from prosecution is higher in conflict environments than in non-conflict environments (Doja, 2019). As the

victims of rape have historically been (and still are) predominantly women, wartime rape continues to disproportionately affect women. Wartime violence (as well as genocide) consequently has an evident gender dimension that is often not made part of a discourse that discusses genocide in gender-neutral terms.

The connection between genocide, gender, and rape has moved more into an academic focus following the use of rape as a tool of war in Rwanda and Yugoslavia in the 1990s. In both Rwanda and Yugoslavia, rape was used extensively by military and paramilitary forces to subjugate civilian populations, sparking a conversation on the role of sexual violence in armed conflict. The International Criminal Court (ICC) has subsequently come to include rape as a crime against humanity in its 1998 Rome Statute. In 2008, the UN Security Council passed Resolution 1820 that tasked a Special Representative of the Secretary General to publish annual reports on the use of sexual violence in conflict (Grønhaug, n.d.). Some international legal frameworks have consequently sought to integrate the gender dimension of genocide into their legislative framework.

The violence in Rwanda and Yugoslavia also led to the coining of the notion of genocidal rape, first introduced by the American academic Beverly Allen in 1996. The extent to which rape was used sparked a conversation on whether rape too can constitute genocide when it is systematically organized and seeks to impregnate the female that is being raped. As Siobhan Fisher (1996) argued in her analysis of the rape of Bosnian women and girls by Serbian troops, *“Repeated rape alone is still ‘just’ rape, but rape with the intent to impregnate is something more”* (p. 125). In her 1996 landmark study *Rape Warfare: The Hidden Genocide in Bosnia-Herzegovina and Croatia*, Allen examined how Serbian military and paramilitary forces systematically raped Bosnian and Croatians women and girls with the aim to impregnate them. Bosnian and Croatian women and girls were held in rape camps where they were detained and raped until they got pregnant. Having fallen pregnant, the female prisoners were held until an abortion was no longer medically safe. Allen (1996) terms this intent to impregnate genocidal rape and defines genocidal rape as consisting of three main elements:

- Rape is employed in a policy-like manner as a weapon of war (p. 47)
- Rape seeks to change the genetic makeup of the ethnic group through the targeted and enforced impregnation of the female (p. 63)
- Ultimately aiming to ensure pregnancy and childbirth, the rape *“erases the cultural identity of the victim, the very characteristics that ostensibly made the person an enemy in the first place”* (p. 101)

Allen’s idea of genocidal rape could serve as a conceptual framework through which to analyse the use of rape as a tool of war. Here too, the act of rape and impregnation can serve certain political goals, for instance the erosion of the presumably other and inferior ethnic/cultural/religious identity of the girl/women that is being raped. As mentioned above, plenty of coverage in contemporary Bangladesh still raises this accusation against Pakistani troops and the Razakars.

The evidence on whether the Pakistani Army systematically committed genocidal rape in 1971 is plenty, but in strict legal and academical terminology, inconclusive. Recalling Davis' interview with D'Costa (2010), rapes were organized in a somewhat systemic way as the selection of girl/women that were to be raped became a part of military strategy:

“They'd [the Pakistani Army and Razakars] keep the infantry back and put artillery ahead and they would shell the hospitals and schools. And that caused absolute chaos in the town. And then the infantry would go in and begin to segregate the women. Apart from little children, all those were sexually matured would be segregated while the rest of the infantry tied... the rest of the town, which would involve shooting everybody who was involved with the East Pakistani government or the Awami League. And then the women would be put in the compound under guard and made available to the troops” (quoted in D'Costa, 2010).

Furthermore, the ethnic and religious identity of the victims played a key role. While Bengali Hindus tended to be killed following the rape, frequently through the bayoneting of the genitals, Bengali Muslims were 'just' raped while Urdu-speaking Muslim Biharis were predominantly spared (Sherlach, 2000). The Bengali (and partially Hindu) identity of the rape victim clearly mattered to the rapists. That said, there is less certainty on whether the rapes were committed with the ultimate intent to impregnate. There is some evidence to suggest that the intent to impregnate was given: after being captured by Indian forces in December 1971, a Pakistani soldier is believed to have said *“hum ja rahe hain. Lekin beej chhor kar ja rahe hain”*, which translates to *“we are going. But we are leaving our seed behind”* (quoted in Sharlach, 2000, p. 95). While this implies a genocidal logic (i.e., the destruction of Bengali ethnicity through rape and impregnation), one statement does not evidence the systemic intent to change the ethnicity of Bangladesh as a whole. This, of course, does not mean that atrocities did not happen, and morally, ethically and practically, constituted genocide.

This rather troublesome legal notion of systemic-institutional intent also makes it complicated whether the events of 1971 can be, in strict legal and academical terminology, classed as a genocide under this ambiguous and outdated UN Genocide Convention. As previously mentioned, Yahya Khan was reported to have said that West Pakistan had to *“kill three million [Bengalis]... and the rest will eat of our hand”* (Ouassini & Ouassini, 2019, p. 46). Technically, this indicates intent: military strategy should be structured in a way that facilitates the killings of three million Bengalis. Yahya Khan's position as President would have technically also bestowed him with the powers to make this intent part of Pakistan's military strategy. Yet, there is no written evidence that this has formally happened. It could be argued that Yahya Khan and the military establishment were astute enough not to leave a paper trail of their intentions. What complicates the matter more is that it is unclear in what context Yahya Khan made this statement - was it in a private conversation with friends or a strategic meeting prior to Operation Searchlight? Notably, context matters in terms of what political and strategic influence a statement can have. Yahya Khan making this statement exhibits a genocidal logic that was at play but for the UN Genocide Convention, it legally (and strangely enough) does not amount to sufficient evidence to prove that Pakistan made genocide a political objective of its military operations.

The fact that the events of 1971 do not amount to genocide under the UN Genocide Convention exhibits the shortcomings of this convention, especially regarding the emphasis on intent and the disregard on how social factors can lead to genocidal behaviour even if genocide is not an outright political objective. As discussed above, there is no evidence to suggest that there was a formalized intent to commit genocide in Bangladesh. Yet, the practical conduct of the Pakistani troops clearly came to mirror a genocide: it sought to destroy Muslim Bengalis and Hindus due to their religious and ethnic identity markers and the normative connotations associated to these identity markers. This genocidal behaviour was regulated and legitimized by a genocidal logic that reflected the deep-seated racism and ethnonationalism that was part of Pakistani society at that time. The main takeaway should not be that Pakistani troops did not commit genocide but that Pakistani troops committed genocide ***without needing a (formal and written) instruction to do so***. The social climate and anti-Bengali sentiment had risen to an extent where not just the political oppression of Bengalis but also their physical elimination was deemed socially permissible. After all, Bengalis were not just seen as little more than chicken and dogs but also as “*crypto-Hindus*” (Lieven, 2011, p. 59). The social-normative environment of Pakistan more generally rendered the elimination of Bengali civilians permissible if it did not actively encourage it. Discussing the events of 1971 in international-legal terms ultimately fails to account how social-normative frameworks played out in the cognitive and practical frameworks of the Pakistani troops.

Ultimately, the events of 1971 were shaped by a genocidal logic that enabled genocidal conduct. Ironically, this conduct cannot be classified as a genocide under the UN Genocide Convention, exhibiting how the Convention’s relation to the tragic events of the holocaust has impaired its capacity to examine other ways in which genocides become motivated and executed. In the case of Bangladesh, the genocidal conduct of the Pakistani military and paramilitary units can be connected to the conceptual failures of Jinnah’s Two Nations Theory: by assuming that Muslims are Muslims before they are anything else, Jinnah misconceptualized the complex ways in which individuals and communities make sense of their own identity and the identity of others.

Conclusion

Painful memories dominate Bangladesh’s national memory of 1971 until now. Seen as inferior by West Pakistanis, the Bengali demands for independence and autonomy were met with a brutal military response that was enabled by the conception of Bengalis as weak and animal-like. The basis of this perception can be traced back to the racial classifications of the British Raj, which divided the subcontinent along often arbitrary lines for the purpose of maintaining colonial control. Throughout South Asia, these classifications determining racial, religious, and caste in-groups and out-groups play a key role until this day. In modern Bangladesh, the memories of 1971 have become the cornerstones of a nation-building enterprise. Much of the contemporary understandings of the 1971 conflict, for instance in regard to the number of people raped and killed, must be seen in this context. The numbers from both the Pakistani and the Bangladeshi side reflect and seek to reinforce specific historical narratives and must

not necessarily be read as accurate portrayals of complex historical processes. The HRC report here exemplifies how processes of institutional introspection are infused with political and ideological pressures. Again, governmental perceptions from either side should not be read as objective portrayals of historical processes but as situated accounts and interpretations of specific developments.

The legal ambiguity surrounding the classification of the 1971 war as a genocide illustrates the shortcomings of an international law framework that remains largely oblivious to the influence of cultural factors. In the existing legal context, the 1971 war does not amount to genocide as there is no evidence of systemic-institutional intent. This legal focus creates a blind spot in which analysis becomes truly interesting: how can the commitment of a genocide be explained when the systemic-institutional intent is absent or at least cannot be proven? Indeed, the focus on genocide as a technical category overshadows how social and cultural dynamics were at play in creating a socio-political environment in which the killing and rape of Bengalis was so normalized that it did not have to be made a deliberate part of military strategy. Examining the build-up to the war and the war as such serves as a reminder of how social environments can prove conducive enough for the genocidal use of killings and rapes.

The events of the 1971 war and the build-up to Bangladesh's independence still cast their long shadow today, both in Bangladesh and Pakistan. Under Prime Minister Sheikh Hasina, the daughter of Mujib, Bangladesh has registered exponential economic growth: since 2021, Bangladesh has the highest GDP-per-capita in South Asia, surpassing India (Sample, 2021). These growth trends juxtapose Pakistan's economic development and have lifted Bangladesh beyond the peripheral rule it had in South Asia under Pakistani rule. The country is not without issues, however: the Hasina government has been accused of suppressing political dissent by disappearing political opponents and the police is alleged of brutality within Bangladesh (Human Rights Watch, 2021). Renewed religious tensions between Muslims and Hindus also threaten to boil over (Shih & Dutta, 2021). Despite the social and economic progress Bangladesh has made since December 1971, the country is thus not insulated from the larger trends of ethnic and religious polarization that have come to characterize South Asian and global politics in the 21st century.

In Pakistan, the events of 1971 constitute a form of national trauma that is discussed very little in the country's mainstream political discourse. The loss of East Pakistan, however, still carries through until today and is visible in Islamabad's suppression of ethnic nationalism in Baluchistan, Sindh, and Khyber Pakhtunkhwa.

Fifty years on, the events of 1971 still loom large.

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