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LETTER DATED 5 APRIL 1972 FROM THE PERMANENT REPRESENTATIVE  
OF PAKISTAN TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT  
OF THE SECURITY COUNCIL

1. I have the honour, under instructions from my Government, to invite Your Excellency's immediate attention to the serious concern of the Government of Pakistan over the reported intention on the part of the Indian Government to hand over a substantial number of Pakistan prisoners of war to the "Bangla Dosh" authorities for trial as "war criminals".
2. The holding of such trials, coming in the wake of the recent killings of Pakistan prisoners of war at the Ranchi and Ramgarh POW camps in India and the reports of the ICRC delegates of maltreatment and humiliations meted out to Pakistan prisoners of war, is bound to exacerbate tensions in the subcontinent and to complicate an already difficult situation between the two countries. The handing over to "Bangla Dosh" by India of Pakistan prisoners of war would be a clear violation of the Geneva Conventions of 1949 and will further delay, and in other ways make more difficult, the implementation of Security Council resolution 307 (1971) of 21 December 1971.
3. Both India and Pakistan have formally accepted Security Council resolution 307 (1971) of 21 December 1971, operative paragraph 3 of which states:  
  
"Calls upon all those concerned to take all measures necessary to preserve human life and for the observance of the Geneva Conventions of 1949 and to apply in full their provisions as regards the protection of the wounded and sick, prisoners of war and civilian population."
4. The Foreign Minister of India, Sardar Swaran Singh, in his statement after the adoption of the resolution, categorically stated, at the 1621st meeting of the Security Council on 21 December 1971 (S/PV.1621):  
  
"We have made it amply clear that the Indian armed forces shall be withdrawn from Bangla Dosh as soon as practicable. With the independence of Bangla Dosh and the surrender of Pakistan troops there, their earliest possible repatriation from the eastern theatre has to be arranged. They are under

our protection, and we have undertaken to treat them in accordance with the Geneva Conventions. The presence of the Indian forces in Bangla Desh is, therefore, necessary for such purposes as the protection of Pakistan troops who have surrendered to us and the prevention of reprisals and the like. We shall withdraw our troops from Bangla Desh as soon as these tasks have been accomplished."

5. It is clear from the above, and on India's own admission that:

(a) India was the occupying/detaining Power in East Pakistan;

(b) Under the terms of the Geneva Conventions of 1949, it was charged with the responsibility for:

(i) The protection and repatriation of civilians under its jurisdiction, in accordance with the fourth Geneva Convention;

(ii) The release and repatriation, without delay, of prisoners of war, in accordance with article 118 of the third Geneva Convention.

6. It is not my Government's intention to enter into legalistic arguments on the question since they can only confuse the real issues. It is sufficient to say that the conflict between the Pakistan and Indian armed forces was of an international character and the Geneva Conventions are applicable to the two parties to the conflict, namely, India and Pakistan. The administration in Dacca has no locus standi in the matter. Under article 12 of the third Geneva Convention relative to Prisoners of War and article 45 of the fourth Geneva Convention relative to the Protection of Civilian Persons in Times of War, prisoners of war or civilian internees cannot be transferred to a Power which is not a party to the Convention. "Bangla Desh" is not a party to the Convention; nor can its recognition by India alter India's obligations under the Conventions.

7. War was the outcome of political developments, and it is my Government's view that only a political settlement between the parties can lead to a solution and to the peace which all desire. The intended move by the Government of India clearly runs counter to its declared willingness to normalize relations with Pakistan. If excesses were committed by one side or the other, then the interests of justice as well as reconciliation would not be served by show trials designed to keep alive public turmoil and tensions. The President of Pakistan has expressed the intention to proceed under the law against those of Pakistan's citizens against whom such charges could be brought.

8. The most urgent task, therefore, is to start talks between the parties. The early repatriation of all prisoners of war will create a favourable atmosphere for the success of such talks and will accelerate the restoration of stable and peaceful conditions. The President of Pakistan has repeatedly indicated his desire

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to begin bilateral negotiations, without pre-conditions, both with the Prime Minister of India and with Sheikh Mujibur Rahman to settle all outstanding issues in an atmosphere of cordiality and tranquillity.

9. I have been instructed by my Government to invite Your Excellency's attention to this situation and to urge Your Excellency to intervene with the Government of India to forestall any attempts to put any Pakistan prisoners of war on trial by the "Bangla Desh" authorities and to allow for their early return in compliance with the Geneva Conventions and Security Council resolution 307 (1971).

10. It is requested that this letter may kindly be circulated as a document of the Security Council.

(Signed) A. SHAHI  
Ambassador Extraordinary and Plenipotentiary  
Permanent Representative of Pakistan to the  
United Nations

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