

Bangladesh's Approach towards International Criminal Law: A Case Study of International Crimes Tribunal Bangladesh

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Received: May 7, 2019

Accepted: June 19, 2019

Online Published: August 14, 2019

doi:10.5539/jpl.v12n3p80

URL: <https://doi.org/10.5539/jpl.v12n3p80>

Abstract

The International Crimes Tribunal Bangladesh that has been found by the Bangladeshi Government to try war crimes during India Pakistan war of 1971. The tribunal is violating the fair trial rights as guaranteed by Constitution, the International Covenant on Civil and Political Rights and International Humanitarian Law and the standard of the International Crimes Tribunal Bangladesh is far below than that setup by The International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda and the International Criminal Court. These irregularities imply serious concern over the proceedings of the said tribunal. Study seeks to describe the International Law about war crimes particularly with respect to fair trial provisions and it compare the proceedings of the Bangladeshi tribunal with the other internationally recognized tribunals.

Keywords: fair trial, human rights, international law, war crimes, Bangladesh

1. Background of the Study

In 2009, after four decades the Bangladeshi Government led by ruling party Awami League re-established the International Crime Tribunal Bangladesh (ICTB) as promised in its election campaign. From its beginning, the ruling party Awami League has used nationalism in promotion of its political ideology which is mostly based on anti-Pakistan sentiments. In this context, Sheikh Hasina's¹ government after being elected ratified *The Rome Statute* and afterwards established two tribunals, in 2010 and 2012 respectively. The aim of these tribunal is to prosecute the war criminal of 1971 war² who allegedly supported the Pakistan Army at that time. These tribunals were constituted under the old ICTA 1973 aimed to manifest the international crimes into the domestic legal order of the country. The ICT-1 and the ICT-2 works under the special rules of procedure and not bound to general Evidence Act of Bangladesh and Bangladeshi Code of Criminal Procedure. Creation of a domestic war-crimes tribunal without having any international supervision or recognition is itself a unique practice that this article is going to explore in coming sections.

Historical background of the legal developments of the ICTB suggest that the war crime trial proceedings were initially initiated to put a diplomatic and political pressure on Pakistan government to accept Bangladesh.³ Therefore, by forgoing the trial planned for the Pakistani POWs, Sheikh Mujibur Rehman achieved recognition for Bangladesh as a sovereign state and a seat at the United Nations. It is matter of great significance that unlike the Collaborators Order of 1972, the ICTA of 1973 was not repealed which is now being used by Sheikh Hasina's government. For time being, the policy of using pressure tactic on diplomatic front to attain recognition was a good move indeed. However, after forty years, now using the same ground for political gains could be seen as an outdated and questionable practice. Although, Sheikh Mujibur Rehman pronounced general amnesty his daughter's regime still using the old sentiments. Keeping political aspects aside, the next sections of the study

¹ Sheik Hasina Wajed is a daughter of Sheikh Mujeebur Rehman and currently ruling the Government of Bangladesh as Prime Minister since 2009.

² The former tribunal operated during 1973-1975.

³ Muhammad Abdullah Fazi. (2018). Historical Background of the International Crimes Tribunal Bangladesh, Unveiling the Truth, *Journal of the Punjab University Historical Society*, 122-123.

critically examines the operative laws and procedure being used in the ICTB through a fair-trial lens.

2. The ICTB

The INTERNATIONAL CRIMES (TRIBUNALS) ACT, 1973 (ACT NO. XIX OF 1973), was enforced by the parliament of Bangladesh to provide for the prosecution, detention and punishment for war crimes accused of committing war crimes. This war crime tribunal has the mandate to try and punish any person or group of persons who has committed the defined war crimes mentioned in section 3(2) of the ICTA within the territory of Bangladesh.⁴

The tribunal is a domestic body, established and operating under the local laws of the country, but due to the nature of crimes committed against humanity which is also recognized under the title of international crimes, this tribunal is also to be called as international crimes tribunal.⁵

3. Right to Fair Trial in ICTB

Fair Trial right has been established as a fundamental norm of the international criminal law. The UDHR, ICCPR, ICC, ICTY, ICTR and all the other internationally recognized treaties and tribunals fully adopted the fair trial provisions in their respective statutes. Therefore, international legal experts assert that “the fair trial right” has already gained the status of *jus cogens*. Therefore, no derogation is allowed to abrogate this right.⁶

In this context, it is also important to mention that Bangladesh is a party to the UDHR, ICCPR and the ICC. Consequently, by virtue of being a signatory of the aforesaid human rights treaties, Bangladesh has a duty to fulfil the requirements of these very treaties regarding fair trial accordingly. Therefore, failure to fulfil its duty would be termed as a violation.

Although, the ICTA⁷ from section 6 to 25, the Act provides for the rights, duties and procedure for the governance of the war trial proceeding. However, due to noncompliance to the ICCPR and to the Rome Statute, the ICTA does not have any international recognition as a standard war crime statute. In this regard, the international bodies, human rights organisations including the HRW and other groups have shown serious concern over the ICTB trial proceedings.

In comparison, the laws of the ICTY and ICTR were recognized and approved by the United Nations Security Council and therefore, entitles as an internationally recognized standard legislation. While the ICTB statute is came into force via legislation in the parliament of Bangladesh having no adoption and recognition at international level. To maintain the international standards, most of the international tribunals constituted the provisions of the ICCPR particularly regarding fair trial. Therefore, the ICTR and ICTY has also adopted the ICCPR in true sense.

Particularly, the ICCPR’s Article 9(3) and Article 14 specifically provides for the fair trial guarantees also known as “minimum guarantees”. Therefore, fair trial provisions as guaranteed in Article 9(3) and Article 14 are visible in the ICTY and ICTR statutes. For instance, the ICTY’s Article 21 and Article 20 of the ICTR provide similar fair trial guarantees as appeared in Article 14 of the ICCPR.

In comparison, Article 17 of the ICTA also recognize some fair trial rights. However, under Article 14 as appeared in the ICCPR minimum guarantees⁸ are not available in the ICTA. To comply with the international standards, these given rights must also be granted to the accused.⁹ Otherwise, the accused rights and the whole process of justice become flawed and unchecked.

4. Right to Fair Trial under the ICTY and ICTR

After discussing the above-mentioned criteria of right to fair trial set up by the international tribunals and statutes, now will try to elaborate that how right to fair trial been observed and promoted by both the international tribunals of the ICTY and the ICTR.¹⁰ As we know that both *ad hoc* tribunals were established by the United

⁴ International Crimes Tribunal-2, Bangladesh, official website of ICTB-1, Last modified December 2014 at <http://www.ict-bd.org/ict1/> retrieved on September 2017

⁵ International Crimes Tribunal-2, Bangladesh, official website of ICTB-2, Last modified December 2014 at <http://www.ict-bd.org/ict2/> retrieved on September 2017

⁶ See, Rights of Accused, ICTY Article 21(4) (a-g), ICTR Article 20(4) (a-g) and ICCPR Article 14.

⁷ International Crimes Tribunal Act 2009.

⁸ See Article 14 ICCPR, i.e. right to adequate time for preparation of the case, trial without undue delay, presence of accused, free of cost interpreter, right on self-incrimination, right to be brought promptly before the court of law, right to public hearing and presumption of innocence etc.

⁹ See, Rights of Accused, ICTY Article 21(4) (a-g) and also ICTR Article 20(4) (a-g).

¹⁰ The full names of these tribunals are “The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of

Nations to prosecute the war criminals in respective areas.¹¹ It is pertinent to mention that on establishment of the ICTY, the Secretary-General of the United Nation has emphasized that the ICTY must fully comply with the rights of accused particularly contained in Article 14 of the ICCPR.¹² Therefore, the guarantees given in Article 14 of the ICCPR are almost repeated verbatim in Article 21 of the ICTY Statute and Article 20 of the ICTR Statute.¹³ In this section, study would analyze that how the fair trial provisions of international law relate and promoted by the statutes of both the tribunals. Before going further into the debate first we will shed some light on the structure and systems of both the tribunal to know that how they work and what is the procedure they have adopt.

a. The ICTY

The main goal of this tribunal is to prosecute those persons involved for crimes such as genocide, inhuman treatment, rape of opponents, crime against humanity and all other crimes mentioned in the statute of the tribunal.¹⁴ The ICTY located in The Hague, tribunal addresses the violations of human rights and the crime against humanity committed during 1991 to 2001 Bosnia and Herzegovina, Serbia, Kosovo and the Former Yugoslav.

According to the statute of the ICTY, the judges of the tribunal come from different jurisdictions. All judges are appointed by the UN Secretary General. The ICTY has three organs; the chamber, Registry and the office of the prosecutor. Judges constitute the first organ of the tribunal. The very first organ of the tribunal consists of three more trial-chambers in addition to an appeal chamber.¹⁵ All these trial Chambers have three permanent judges. With this maximum six *Ad litem* judges are also appointed by the UN Secretary-General if requested by the president of the tribunal for efficient working. At least three judges are appointed for a case, and a permanent judge must be appointed in each case.¹⁶ Trial chamber ensures that the role of procedure and the right to air trial is fully observed in every case.¹⁷

There are total seven judges appointed in appeal chamber, among seven, five of them are from the ICTY and the other two are appointed from the ICTR. All these judges are permanent judges of their respective tribunals.¹⁸

The ICTY Judges elects their President and Vice president. President of the ICTY is elected by voting having two-year tenure. President is responsible for presiding the appeal chamber and annual reporting of the ICTY.¹⁹

Those interested in the Tribunal's proceedings can visit the ICTY and watch trials first-hand. Trials can also be followed through the internet broadcast.²⁰

b. The ICTR

The ICTR was established just after a year of the establishment of the ICTY, through the UN Security Council Resolution 955. The ICTR aims to prosecute those individuals who committed in genocide and war crimes at Rwanda.²¹ The ICTR works by its own statute, statute of the ICTR gives framework to its functioning and

International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991” and “The International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Serious Violations Committed in the Territory of Neighboring States, between 1 January 1994 and 31 December 1994.” See, Statute of the International Tribunal for the Former Yugoslavia, May 25, 1993, 32 I.L.M. 1192 [hereinafter ICTY Statute]; Statute of the International Tribunal for Rwanda, Nov. 8, 1994, 33 I.L.M. 1598 [hereinafter ICTR Statute], with its respective amendments until today’s date.

¹¹ The ICTY was established in 1993 through the UN Security Council resolution, ‘Resolution 827’, *unscr.com*, S/RES/827, 25 May 1993, and The ICTR was established in 1994 through the UN Security Council, ‘Resolution 955’, *unscr.com*, S/RES/955, 8 November 1994.

¹² The Secretary-General, *Report of the Secretary-General Pursuant to Paragraph 2 of Security Council Resolution 808*, ¶ 106, delivered to the Security Council, U.N. Doc. S/25704 (May 3, 1993) (emphasis added).

¹³ Wolfgang Schomburg, *The Role of International Criminal Tribunals in Promoting Respect for Fair Trial Rights*, 8 *Nw. J. Int'l Hum. Rts.* 1 (2009). <http://scholarlycommons.law.northwestern.edu/njihr/vol8/iss1/1>

¹⁴ See ICTY Statute, Article 2 to Article 5.

¹⁵ See ICTY Statute, Article 11.

¹⁶ See ICTY Statute, Article 12.

¹⁷ See, *About ICTY, Chambers*, at the official website of the ICTY, Last modified October 13, 2014 at <http://www.icty.org/sections/AbouttheICTY/Chambers> retrieved on, 22/10/2014 at 12:35am.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ *Virtual broadcasting*, from court room 1, at <http://www.icty.org/sid/10915>

²¹ see ICTR Statute, Article 2 to Article 4.

procedure. Like the ICTY, the ICTR also has same three main organs to attain justice.²² By virtue of the resolution 977 of the UN Security council the ICTR is located in United Republic of Tanzania.

Like the ICTY there are also three trial chambers and an appeal chamber are constituted for functioning of the ICTR.²³ The judges for said chambers are elected by the General Assembly from the nominations of the Security Council. Initially, they are nominated from the member states of the UN. There are total 16 judges for three trial chambers and appeal chamber from different countries of the world.²⁴

A trial-chamber consists of three judges and there are five judges for the Appeal Chamber. Appeal chamber also shares with the ICTY for transparency.²⁵

After discussing the above-mentioned formation and procedure of the ICTY and the ICTR one can say that both of these tribunals are a good example of a competent, neutral and impartial judicial body as almost all the necessary measures for impartiality are rightly taken by the UN.

The independence of judiciary is the key focus of both the tribunals having international judges as member of the court ensure no bias that ultimately guarantees a fair trial.

5. Reflections of the Fair Trial Provisions of International Law in the ICTY and ICTR

Bellow we will discuss the fair trial rights of accused considering international statutes and their reflections on the ICTY and the ICTR:

a. Appearance before the court, right to inform reason of arrest and equality of arms.

Prohibition of arbitrary arrest and detention is an essential element of fair trial right concept. This right has been provided in the ICCPR under the same title.²⁶ This guarantee of prompt appearance before a judge is also been protected in Article 19(2) of the ICTR and in Article 20(2) of the ICTY. As both the above-mentioned Articles are similarly providing that “A person against whom an indictment has been confirmed shall, pursuant to an order or an arrest warrant of the International Tribunal for Rwanda, be taken into custody, immediately informed of the charges against him or her and transferred to the International Tribunal for Rwanda”.²⁷ With this, Rule 53 *bis* of the Rwanda Rules²⁸ and Rule 59 *bis* (B) of Yugoslavia Rule²⁹ ensures the right to be informed reason to arrest. Moreover, the Rule 42 of both the tribunals incorporates right to legal counsel and its notification accordingly.

As discussed earlier, the principle of equality of arms is an essential element of criminal justice, the respective statutes of the ICTY and ICTR in the conformity of the ICCPR and ICC also guarantees it. The Article 20(1) of the Rwanda Statute and the Article 21(1) of the Yugoslavia Statute confirms the right to equality before the courts.

b. Fair hearing

Right to be heard by an impartial tribunal which is the most important part of fair trial concept has also been incorporated in both statutes to ensure true justice.³⁰ Therefore, a separate article to provide the “fair hearing” right has been incorporated in ICTY and ICTR statutes. Article 20(2) of the ICTR Statute and Article 20(1) and 21(2) of the ICTY Statute exclusively guarantees a fair trial right to the accused.

c. Right to a public hearing

The most significant right of fair trial concept is a right to a fair and public hearing. This right is also being given under the ICCPR Article 14(1) as previously discussed in this chapter.³¹ The ICTR and the ICTY both also similarly states that “*the hearing shall be public...*”³²

²² see, *About ICTR, Structure*, at the official website of the ICTR, Last modified, October 13, 2014 at <http://www.unict.org/tabid/103/Default.aspx> retrieved on, 22/10/2014 at 1:35am.

²³ see ICTR Statute, Article 10.

²⁴ Ibid.

²⁵ Ibid.

²⁶ See, ICCPR Article 9(3).

²⁷ also, see the ICTY and ICTR Statutes.

²⁸ ICTR RULES OF PROCEDURE AND EVIDENCE. <http://w.unict.org/sites/unict.org/files/legal-library/150513-rpe-en-fr.pdf>

²⁹ Ibid.

³⁰ Article 15 of Rwanda Rules, Article 15 of Yugoslavia Rules.

³¹ See, ICC Statute, Article 67(1).

³² See, CTR Statute, Article 19(4) and Article 20(2), ICTY Statute, Article 21(4) and also Article 22(2).

d. Presumption of innocence

The right to be presumed innocent until proved guilty is a basic principal of law and a very fundamental right available to the accused in a criminal trial in fair trial concept. The ICCPR also recognize it.³³ Under the title of “*Rights of Accused*” the ICTR in its Article 20(3) states that “The accused shall be presumed innocent until proven guilty according to the provisions of the present Statute” and ICTY also recognizes the same right in a similar pattern.³⁴

e. Right to be informed, adequate time, undue delay, presence of accused, defense, examination of witness, interpreter and right on self-incrimination

All these above titled rights are known as “*minimum guarantees*”, therefore these are very important and significant rights in fair trial concept available to the accused. These rights are particularly associated with the hearing phase of a trial also discussed under the title of “*During Trial*” in this chapter earlier. ICCPR also covers and protects all these rights under its Article 14(3) a. to Article 14 (3) g.³⁵

The ICTR and the ICTY both also categorically recognized all these important rights under Article 20(4) (a to g) clauses of the ICTR and under Article 21(4) (a-g) clauses of the ICTY. Article 20 (4) (b) of the ICTR Statute and Article 21(4) (b) of the ICTY Statue provides a right to adequate time and facilities to prepare for defence. Disclosure of the relevant documents is an important part of right to adequate facilities. Rules 66-68 of Rwanda Rules and Rule 66, 67(b) (ii) and 68 of the Yugoslavia Rule provides the right to Disclosure of relevant documents.

Similarly, the Article 20 (4) (g) of the ICTR Statute and the Article 21 (4) (g) of the ICTY Statute ensure the prohibition of self-incrimination. In extension of prohibition of self-incrimination, right to remain silence is also given in the respective Rules³⁶ of the ICTY and the ICTR. With this, Rules³⁷ of the ICTR and ICTY provides a right of interpreter to the accused during the trial.

Both statutes cover and protect all the seven rights under the same title “*Rights of Accused*”.³⁸

f. right to compensation

It important to mention that the respective statutes of the ICTY and the ICTR does not provide explicitly an appropriate remedy. However, in the Rwamakuba case when tribunal found that the accused was not guilty of any of the alleged charges, the ICTR trial chamber held that the tribunal must have the inherent power to compensate. The ICTR trial chamber awarded 2000 USD to Rwamakuba and ordered the registrar to apologies for the violations of his rights³⁹.

6. Comparison of the ICTB with the Standards of the Other International Tribunals

To analyze the procedure and mechanism of prosecuting war crimes provided under the ICTB, it is pertinent to compare it with the other international tribunals i.e. The ICTY and the ICTR. A brief comparison also helps to scrutinize the standards adopted by the ICTB in terms of fair trial rights. Preliminary examination of the ICTB reveals that it is a local tribunal governing by the domestic laws of Bangladesh established by the Government via parliamentary legislation. Therefore, the ICTB is significantly different from the other tribunals in terms of its establishment, procedure and fair trial criteria.⁴⁰ Below discusses the important different aspect of the ICTB to find out the practices which differentiate this tribunal from the others.

6.1 Aim and Establishment

As study discussed earlier that ICTB was established by the ruling Government of Sheikh Hasina Wajid (daughter of Sheikh Mujeeb) through a legislation done by the parliament in 2009. The basic aim was to try the alleged war crimes of 1971 war.

³³ 14 (2) of the ICCPR states “Every charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law”.

³⁴ See, ICTY Statute, Article 21(3).

³⁵ See, ICCPR Article 14(3) (a-g).

³⁶ See, Rule 42 (a) (iii) of Rwanda Rules, Rule 42 (a) (iii) of the Yugoslavia Rules.

³⁷ See, Rule 42 (a) (ii) of Rwanda Rules, Rules 42 (a) (ii) of the Yugoslavia Rules.

³⁸ see Rights of Accused, ICTY Article 21(4) (a-g) and also ICTR Article 20(4) (a-g).

³⁹ Prosecutor v. Rwamakuba, Case No. ICTR 98-44C-T, Decision on Appeal Against Decision on Appropriate Remedy, 26 (Sept. 13, 2007).

⁴⁰ Muhammad Abdullah Fazi, (2015). “ICTB and violations of right to fair trial a comparative study”, *Maarif Research Journal*, 9, 12.

On contrary, establishment the ICTR and ICTY has made through the Resolutions of Security Council.⁴¹

Establishment through an internationally recognized body makes these tribunals transparent and credible. It also checks on its working and insure the safeguards available in law. However, basic aim of both the tribunals is same as stated in the ICTB.

6.2 Statute and Fair Trial Guarantees

The procedures and statutes of the ICTY and ICTR were recognized by UN Security Council⁴². While the statute of the ICTB is came into force through legation in Bangladeshi parliament having no adoption and recognition at international level. To maintain the international standards, most of the international tribunals adopted and constituted the fair trial guarantees as appeared in the ICCPR in their respective laws. The ICTR and ICTY have fully incorporated the due process provisions and followed the ICCPR in true sense. In this regard, The ICCPR's Article 9(3) and Article 14 provides the fair trial guarantees. Hence, these fair trial provisions of the ICCPR are also available in the said tribunals. Particularly, the ICTY's Article 21 and ICTR's Article 20 guarantees fair trial rights in similar way as appeared in the ICCPR.

In Bangladesh, The ICTB also recognize the fair trial rights under ICTA Article 17. In this regard, a few rights have been given. However, under the obligation of the ICCPR's Article 14, several⁴³ important rights are not provided. To comply with the international standards, these very important rights must be available to the accused as available in the statutes of the ICTR and ICTY.⁴⁴

6.3 Chamber and Seat of the Tribunal

Another unique aspect of the Bangladeshi tribunal is its chamber and seat. As Article 6 of the ICTA that members of the tribunal are appointed by the Government of Bangladesh. Moreover, there is no provision to challenge the tribunal and appointments of its members. Therefore, HRW also shows reservations on said cause of the ICTA. The criteria of the chairman and other members of the tribunal set up by the ICTA is significantly weak as it says, "Any person who is a Judge, or is qualified to be a Judge, or has been a Judge, of the Supreme Court of Bangladesh, may be appointed as a Chairman or member of a Tribunal".⁴⁵

It is to be noted that the ICTA statute does not provide any provision to appoint international judge in the tribunal. Therefore, all members are locals and former judges of Bangladeshi courts. Moreover, seat of the tribunal situated is situated in Dhaka that also endangers impartiality.

Contrary to this, the ICTY and the ICTR have neutral judges belong to different countries. For appointment of judges, both the tribunals have adopted an election formula and well-defined criteria of qualification. Therefore, members of these tribunals are appointed by the UN General assembly through voting. With this, to ensure a free environment, both the tribunals seated at neutral venue.

The prosecutors of these two tribunals are also appointed by the UN Security Council but in the ICTB the prosecutors have been appointed by the ruling Government. Appointment of prosecutors and appointment of member by the Government endangers the fair trial concept and raise questions on the impartiality of the tribunal.

6.4 Safeguard of Witnesses and Victims

As study discussed earlier, that the protection of witnesses and victims is a compulsory part of any judicial proceeding. Unfortunately, there is no specific protection has been provided to the witness in the statute of the ICTB. In contrast, the ICTY in its Article 22 and the ICTR in its Article 21 provided the same protection to both victim and witness to ensure a free and fair testimony.

6.5 Death Penalty

Both the ICTY and the ICTR are limited to imprisonment. However, the ICTB empowered to pronounce death penalty. UN, HRW, the IBA and other International organizations have also criticized on the death penalty clause of the ICTA.

⁴¹ The ICTY was established in 1993 through the UN Security Council resolution, 'Resolution 827', *unscr.com*, S/RES/827, 25 May 1993, and The ICTR was established in 1994 through the UN Security Council, 'Resolution 955', *unscr.com*, S/RES/955, 8 November 1994. While The ICTR was established just after an year through the UN Security Council Resolution 955.

⁴² Ibid.

⁴³ Particularly the right to adequate time for preparation of the case, trial without undue delay, presence of accused, free of cost interpreter are not available in the ICTB.

⁴⁴ See, Rights of Accused, ICTY Article 21(4) (a-g) and also ICTR Article 20(4) (a-g).

⁴⁵ See, ICTAA Article 6. (2).

7. Conclusion

Right to fair trial is recognized by all the international human rights bodies and instruments including the UDHR, The Geneva Conventions, the ICCPR, the ICC Statute, African Charter, ECHR, etc. and by all the internationally recognized military tribunals. Apart from the inefficient compensation mechanism, the ICTY and the ICTR were fully adopted and incorporated these rights in their statutes as a guarantee against the unlawful actions by the states and to ensure the real justice. Consequently, in terms of fair trial guarantees this study finds that the fair trial provisions of international law were fully incorporated and promoted by the statutes of these two tribunals.

In contrast, being a prototype of the IMT Nuremberg Charter, the ICTA (Governing Act of the ICTB) has lost its relevance in 2009. The Nuremberg legacy had been superseded by the modern and more developed international tribunals i.e. the ICTY (1993), ICTR (1994) and Sierra Leone (2002) and the ICC (2002). The modern tribunals have developed rules of evidence and provisions to ensure the rights of each party in a trial. Particularly, constitutions of the modern tribunals provide a scope for objecting to judges in case of impartiality or incompetency, special provisions to protect witnesses, guarantees to ensure right to fair trial at every stage of the proceeding and so forth. These guarantees were little heard of in the ICTA 1973. Study finds that, the international crimes tribunal Bangladesh did not fully incorporate the fair trial standards set by the ICCPR, UDHR and Rome Statute in which Bangladesh is a state party. Due to noncompliance with the ICCPR, UDHR and Rome Statute, Study finds serious loopholes remain in the ICTB and its governing Act. Furthermore, a comparative study suggest that the ICTB is different from the internally recognized tribunals in three main aspects. The local members of the tribunal, a domestic law with very few fair trial provisions and no international supervision make the Bangladeshi tribunal (The ICTB) is a very unique rather strange example of war crime tribunal. This trend also shows the Bangladesh's approach towards international law, its interpretation and incorporation in its domestic sphere. Therefore, in the case of ICTB, mere ratification of treaties is not enough. To ensure a free and impartial trial, incorporation of Article 14 of the ICCPR with proper international supervision is required immediately.

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