rule inapplicable against retrospective criminal trials to cases under the Act of 1973.

On the institutional ground, the Act of 1973 also passes the test of international standards. Overarchingly, s. 6 (2A), inserted in 2009, provides that "the tribunal shall be independent in the exercise of its judicial functions and shall ensure fair trial". Judicial independence is one of the fundamental essentials of the right to fair trial. Given this clear statutory duty of impartiality imposed on the tribunals and the charge upon them to maintain fairness throughout the process, the concerns about the fairness and impartiality in the trial of war crimes seem to be misplaced. It should be noted that before inserting the duty of maintaining fairness in the trial, the government pledged the independence of war crimes tribunals at the very outset of its legal efforts in 1973. This commitment is still valid, and the government has recently renewed the pledge, and there is no indication that it would do otherwise.

A pertinent question is whether the Bangladeshi Act adheres to general principles of criminal justice such as presumption of innocence and the rule against double jeopardy. There is at present no provision in the 1973 Act that markedly curtails the rights of the defendants. For example, there are provisions for independent prosecution and investigative agencies (sections 7-8), which will exclusively function for the war crimes trials. Moreover, the defendants are given the right to appeal to the Supreme Court within 60 days of the convictions, although they are barred from challenging the legality of proceedings.

Article 47A of the Constitution provided that the fundamental rights guaranteed under Articles 31, 35 and 44 shall not apply to any person to whom a law specified in clause (3) of Article 47 applies, i.e., a person to whom International Crimes (Tribunals) Act 1973 applies. These are, no doubt, certain exceptions to the doctrine of fair processes. Article 47A (2) categorically provided that such a person, i.e., a person amenable to the ICT Act 1973, shall not have the right to move to the Supreme Court for any of the remedies under this Constitution.

This limitation on the right to invoke constitutional jurisdiction has largely been compensated in the 1973 Act by providing the accused with a right to appeal. Further, imposition of a bar on the perpetrators' right to constitutionally challenge their trials for serious crimes is in no way illegitimate as far as the law provides for fair play and procedural justice in the trial process. That said, it should also be noted that despite the abovementioned limitation a writ of certiorari is likely to issue from the High Court Division when the process is blatantly illegal or is taken in flagrant breach of the ICTA itself.

It seems that the Act does not specifically guarantee a right to speedy trial. By contrast, the constitutional right to speedy trial has been made inapplicable for those charged under the ICTA 1973. Nonetheless, the Act of 1973 has by implications provided for speedy trial. For example, section 22 of the 1973 Act grants powers to the tribunal a power to regulate its own procedure. Moreover, technical rules of evidence and trial procedure are not applicable to a trial before such tribunals.

Further, the accused has been guaranteed the right not to take oaths while presenting evidence and the right to know the charge levelled against him. As section 17 provides, the accused shall have the right to give any explanation of charge and conduct his defence. The Act also provides that the trials should be open and public trials, unless the judge on good reasoning orders otherwise. Public and open trial is one of the fundamental elements of the fair trial rights. The exception to public trial as provided in the 1973 Act, for which a reasoned judicial decision is a must, is also internationally acceptable. Also, restrictions on the entry of the general public to the Tribunal during the proceeding are made on the ground of security, which is obvious.

There are also rights for the defendant to inspect documents and to get the reasons behind charging him in such well advance that he can prepare for the defence. More importantly, the Tribunal must record its reasons on the findings on guilt of the accused.

In addition to the fair trial standards provided for in the Act, the Rules of Procedure of the Tribunal have prescribed a number of 'fair trial' procedures and principles. The Rules specifically mention the 'fair trial' and 'justice' in rule 41, while making provision for the assistance from the *amici curie*. The 'Rules' also empowers the Tribunal to discharge an accused when it finds no adequate reason to presume that the accused committed the offence charged (rule 37), virtually prohibits the prosecution on frivolous charges and