the force of law in Bangladesh." In that case, the definition of "law" becomes very significant. By the twin jus cogens international legal instruments, i.e. The Universal Declaration of Human Rights and the Genocide Convention, states (Bangladesh or Pakistan) were required to punish either domestically or by such international criminal tribunal as may have jurisdiction, acts which were intended to destroy, in whole or in part, a national, ethnic or racial group (for example, the Bangalees in general and Hindu Bangalees in particular), committed by anyone, "whether they are constitutionally responsible rulers, public officials or private individuals." It has to be remembered that making a new criminal responsibility and bringing an already recognised crime within the ambit of law by providing the penalty not 'greater than the recognizing law' are two different matters.

An analogy may be drawn from Australian jurisdiction. The Australian High Court upheld the retrospectivity of a national war crimes law in *Polyukhovich Case* (1991) and said: "The retrospective operation of the Australian War Crimes Act was authorised by the constitution since that operation was a matter incidental to the execution of a power vested by the constitution in the parliament." In that case, Ivan Polyukovich was charged with war crimes in respect of acts allegedly committed by him during World War II. He initiated a challenge to the constitutional validity of the Australian *War Crimes Act 1988 (amendment of 1945 Act)* on the basis that the Act purported to operate retrospectively. The Court held that the Act was not retrospective in operation because it only criminalised acts which were war crimes under international law as well as "ordinary" crimes under Australian law at the time they were committed. There was a right to exercise universal jurisdiction. The War Crimes Act facilitates the exercise of this right. Justice Dawson observed in the judgment: "[T]he *ex post facto* creation of war crimes may be seen as justifiable in a way that is not possible with other ex post facto criminal laws ... [T]his justification for a different approach with respect to war crimes is reflected in [Article 15(1)] the International Covenant on Civil and Political Rights to which Australia became signatory on December 18." Bangladesh is also a party to the ICCPR. So, there is hardly any reason why the Bangladesh case should be a different one. The 1973 Act was the first ever written national law to prosecute international crimes, which the scholars have regarded as the foundation stone of modern international criminal law. Denying this truth is to deny the trends and evolution of individual responsibility under international law.

Procedural safeguards: The 1973 Act in parlance

Government spokespeople have said that internationally accepted procedural safeguards would be maintained in the trial. The Act has provided for an independent investigation agency, and charges can only be brought if credible information against the suspects is found. The 1973 Act not only envisages right of appeal of a person convicted by the tribunal to



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