

**INTERNATIONAL CRIMES TRIBUNAL**  
**Old High Court Building**  
**Dhaka, Bangladesh**

NOTIFICATION

Dated : 28 June 2011

**No. Anto: Apo: Tri:138/Bidhi/II**—The Tribunal, in exercise of the powers conferred by section 22 of the International Crimes (Tribunals) Act, 1973 (Act XIX of 1973) (hereinafter referred to as the “Act”), has introduced the following amendments in the International Crimes Tribunal Rules of Procedure, 2010 (hereinafter referred to as “Rules”):

**Chapter I**

**General Provisions**

**Short title:**

1. These Rules may be cited as the “**International Crimes Tribunal Rules of Procedure (Amendment), 2011.**”

**Amendment to Rule 2**

2. The definition of “Victim” shall be added in rule 2 by inserting the following sub-rule (26)

“(26) “Victim” refers to a person who has suffered harm as a result of commission of the crimes under section 3(2) of the International Crimes (Tribunals) Act, 1973.”

## **Chapter II**

### **Powers and Functions of the Investigation Agency**

#### **Amendment to Rule 8**

3. The following sub-rule (5) shall be inserted in rule 8—  
“(5) The Tribunal, if it considers expedient, may direct the prosecutors to present the progress report of investigation for its perusal.”

#### **Amendment to Rule 9**

4. The following sub-rules (5) and (6) shall be inserted in rule 9—  
“(5) If an accused is in custody during investigation period, the investigation officer shall conclude the investigation within one year of his arrest under the Rules. In case of failure to complete the investigation as specified above, the accused may be released on bail subject to fulfillment of some conditions as imposed by Tribunal. But, in exceptional circumstances, the Tribunal by showing reasons to be recorded in writing may extend the period of investigation and also the order detaining the accused in custody for a further period of six months.  
  
(6) After every three months of detention of the accused in custody the investigation officer through prosecutor shall submit a progress report of investigation before the Tribunal on perusal of which it may make a review of its order relating to the detention of the accused.”

## **Chapter III**

### **Powers and Functions of the Prosecution**

#### **Amendment to Rule 18**

5. Rule 18 shall be re-numbered as rule 18(1) and thereafter the following subrule (2) sub-rule (3), sub-rule (4), sub-rule (5) and sub-rule (6) shall be inserted  
“(2) The Investigation Agency shall
  - (a) work with the Prosecutors in preparing the report under rule 18(1), and after submission of the report, shall assist the Prosecutors in the task of formulating the formal charge including arrangement of documents and materials; and
  - (b) also assist the Prosecutors in tendering evidence at any stage of trial.

**“(3)** As and when directed by the Tribunal, the Investigation Agency shall produce witness before the Tribunal as required by the Prosecutors. The law enforcing agency of the concerned area shall provide all necessary assistance to the Investigation Agency in executing the process issued for securing attendance of witness.

**(4)** The Chief prosecutor shall file extra copies of formal charge and copies of other documents for supplying the same to the accused(s) which the prosecution intends to rely upon in support of such charges so that the accused can prepare his defence.

**(5)** The Chief Prosecutor shall also file three sets of formal charge and other documents intended to be relied upon before the Tribunal in compact disk (CD) or digital versatile disk (DVD) while submitting the formal charge under sub-rule (1).

**(6)** The defence shall also require to submit three sets of list of witnesses along with the documents which the defence intends to rely upon before the Tribunal in compact disk (CD) or digital versatile disk (DVD) while furnishing the same under section **9(5)** of the Act.”

#### **Chapter IV Procedure**

##### **Amendment to Rule 24**

6. The following sub-rule (1A) shall be inserted after sub-rule (1) of rule 24—  
“(1A) At the time of recording confession under rule 24(1) the Judicial Magistrate shall allow the engaged counsel for the accused to be present there, provided that the counsel shall not be allowed to interfere or speak in course of recording such confession.”

##### **Amendment to Rule 26**

7. The following sub-rule (3) shall be inserted in rule 26—  
“(3) The Tribunal, on its own motion or on the application of either party, may review any of its order including the order of framing charge (s) in the interest of justice.”

##### **Amendment to Rule 28**

8. Rule 28 shall be re-numbered as rule 28(1) and thereafter the following sub-rule (2) shall be inserted in rule 28—  
“(2) Record of disposed of cases shall be preserved and archived for ever by the Tribunal at the place and in the manner as arranged by the government.”

## **Chapter V**

### **Powers and Functions of the Tribunal**

#### **Amendment to Rule 29**

- 9.** Sub-rule (2) in rule 29 shall be deleted.

#### **Amendment to Rule 34**

- 10.** The following sub-rule (3) shall be inserted in rule 34—

“(3) At any stage of the proceedings, the Tribunal may release an accused on bail subject to fulfillment of some conditions as imposed by it, and in the interest of justice, may modify any of such conditions on its own motion or on the prayer of either party. In case of violation of any of such conditions the accused may be taken into custody cancelling his bail.”

#### **Amendment to Rule 38**

- 11.** The Rule 38 shall be re-numbered as rule 38(1) and thereafter the following sub-rule (2) shall be inserted in rule 38—

“(2) An accused pleading not guilty will get at least three weeks time for preparing his defence.”

#### **Amendment to Rule 43**

- 12.** The Rule 43 shall be re-numbered as rule 43(1) and thereafter the following sub-rules (2), (3), (4), (5), (6) (7) and (8) shall be inserted in rule 43-

(2) A person charged with crimes as described under section 3(2) of the Act shall be presumed innocent until he is found guilty.

(3) No person shall be tried twice for the same offence described under section 3(2) of the Act.

(4) The accused shall be entitled to a fair and public hearing and to engage his counsel at his choice who is legally authorised to appear before this tribunal.

(5) The accused shall be tried without undue delay.

(6) No accused shall be punished without giving him an opportunity of being heard.

(7) No accused shall be compelled to testify against his will or to confess his guilt.

(8) The accused is entitled to get a copy of judgment [under section 10(j) of the Act] free of cost.”

#### **Insertion of new Rule 43A**

13. The following new rule 43A shall be inserted after the rule 43—

“43A. If the accused on bail fails to appear and or the accused being in custody refuses to come to Tribunal for any reason and or he could not be brought before the Tribunal due to his long ailment, the Tribunal shall have authority to proceed with the proceedings in presence of his counsel or pass any order which it thinks fit and proper.”

#### **Amendment to Rule 46**

14. The Rule 46 shall be re-numbered as rule 46(1) and thereafter the following sub-rule (2), sub-rule (3), sub-rule (4) shall be inserted in rule 46—

“(2) Upon conviction of an accused person under section 20(2) of the Act, the sentence of imprisonment shall commence from the date of judgment. In case of absconding convict, it shall commence from the date of his surrender before the Tribunal, or from the date of his arrest.

(3) Proportionate to the gravity of the crime, in sentencing the accused, the Tribunal may also impose fine and or pass reparation order which is deemed to be fit and proper.

(4) Clerical or numerical errors or omissions in the judgments or orders may at any time be corrected by the Tribunal either on its own motion or on the application of either party.

#### **Insertion of new Rule 46A**

15. The following new rule 46A shall be inserted after the rule 46—

“46A. Nothing in these Rules shall be deemed to limit or otherwise affect the inherent power of the Tribunal to make such order(s) as may be necessary to meet the ends of justice or to prevent abuse of the process.”

## **Chapter VI**

### **Evidence**

#### **Amendment to Rule 50**

16. The Rules is amended in rule 50 by inserting the words “beyond reasonable doubt” after the words “upon the prosecution” in rule 50.

#### **Amendment to Rule 51**

17. The following sub-rule (3) shall be inserted in rule 51—

“(3) Mere failure to prove the plea of *alibi* and or the documents and materials by the defence shall not render the accused guilty.”

#### **Amendment to Rule 53**

18. The words “and mode of its recording will be decided by the Tribunal at the time of trial” shall be inserted after the words “the Tribunal directs” in rule 53.

#### **Amendment to Rule 54**

19. The Rule 54 shall be re-numbered as rule 54(1) and thereafter the following sub-rule (2) shall be inserted in rule 54—

“(2) Pursuant to section 19(1) of the Act, the Tribunal may admit any document or its photo copies in evidence if such documents initially appear to have probative value.”

#### **Amendment to Rule 56**

20. The following sub-rule (3) shall be inserted in rule 56—

“(3) Any statement made to the investigation officer or to the prosecutor in course of investigation by the accused is not admissible in evidence except that part of the statement which leads to discovery of any incriminating material.”

## **Insertion of new Rule 58A under the new Chapter VIA**

### **Chapter VIA**

#### **Witness and Victim protection**

21. After the chapter VI a new chapter VIA shall be added under which the following new rule 58A(1), and thereafter sub-rule (2) and sub-rule(3) shall be inserted in rule 58A—

“58A (1) The Tribunal on its own initiative, or on the application of either party, may pass necessary order directing the concerned authorities of the government to ensure protection, privacy and well-being of the witnesses and or victims. This process will be confidential and the other side will not be notified.

(2) The government shall

- (a) arrange accommodation of witness(s) /victims (s), if so prayed for;
- (b) ensure security and surveillance during the stay of witnesses! victims as directed by the Tribunal; and
- (c) take necessary measure to escort the witnesses/victims to the courtroom by the members of the law enforcing agency.

(3) In case of holding proceedings in camera under section 10(4) of the Act, both the prosecution and the defence counsel shall provide undertakings regarding confidentiality of the proceeding, and shall not reveal any information arising out of such proceeding including identity of the witness. Violation of such undertaking shall be prosecuted under section 11(4) of the Act.”

### **Chapter VII**

#### **Office of the Tribunal**

#### **Amendment to Rule 59(1)**

22. The words “Assistant Registrar(s)” after the words “Deputy Registrar” shall be inserted in sub-rule (1) of rule **59**.

## **Powers and Functions of Registrar and Deputy Registrar**

### **Amendment to Rule 60(2)**

23. A comma “(,)” and the words “shall represent the Tribunal as its spokesman” shall be inserted after the words “service of the Tribunal” and before the words ‘and shall serve as its channel of communication’ in sub-rule (2) of rule 60.

<b>A K M Zaheer Ahmed Justice</b>	<b>A T M Fazie Kabir Justice</b>	<b>Md. Nizamul Huq</b>
Member	Member	Chairman

**By order of the Tribunal**  
**Md. Shahirnir Islam**  
Registrar (District Judge).